

**UKRAINE**

**PROGRAM-FOR-RESULTS**

**Resilient, Inclusive and Sustainable Enterprise (RISE) Project  
(P505616)**

**Environmental and Social Systems Assessment  
(ESSA)**

**FINAL DRAFT**

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The Environmental and Social Systems Assessment (ESSA) of the Program-for-Results (PforR) Ukraine Resilient, Inclusive and Sustainable Enterprise (RISE) Project (P505616) was prepared by a World Bank team composed of Aki Tsuda (Senior Social Development Specialist), Oksana Rakovych (Senior Environmental Specialist), Amos Abu (Senior Environmental Specialist), Anastasiia Zakharova (Social Development Consultant) and Nataliia Khilobochenko (Environmental Consultant) in close coordination with the Task Team Leaders, Johanna Jaeger (Senior Financial Sector Specialist) and Alberto Criscuolo (Senior Economist).

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## Abbreviations

<b>TERM</b>	<b>EXPANDED TERM/ DEFINITION</b>
ARISE	Ukraine Agriculture Recovery Inclusive Support Emergency Project
BDF	Business Development Fund
CPF	Country Partnership Framework
CPS	Country Partnership Strategy
DLI	Disbursement Linked Indicator
DLR	Disbursement Linked Results
E&S	Environmental and Social
EBRD	European Bank for Reconstruction and Development
ECA	Export Credit Agency
EEPO	Entrepreneurship and Export Promotion Office
EIB	European Investment Bank
ERW	Explosive Remnants of War
E&S	Environmental and Social
ESCP	Environmental and Social Commitment Plan
ESF	Environmental and Social Framework
ESG	Environmental, Social and Governance
ESRS	Environmental and Social Review Summary
ESS	Environmental and Social Standards
EU	European Union
FDI	Foreign Direct Investment
FM	Financial Management
G2B	Government-to-Business
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GIIP	Good International Industry Practices
GoU	Government of Ukraine
IBRD	International Bank for Reconstruction and Development
IFC	International Finance Corporation
IMF	International Monetary Fund
IPF	Investment Project Financing
IT	Information technology
IVA	Independent Verification Agency
M&E	Monitoring and Evaluation
MoE	Ministry of Economy
MoF	Ministry of Finance
NDC	National Determined Contribution
NES	National Economic Strategy
NQI	National Quality Infrastructure
PAP	Program Action Plan
PCU	Project Coordination Unit
PDO	Program Development Objective(s)
PER	Policy Effectiveness Review

P505616 – Resilient, Inclusive and Sustainable Enterprise (RISE) Project  
 Environment and Social Systems Assessment (ESSA)

PforR	Program-for-Results Financing
PIU	Project Implementation Unit
POM	Project Operations Manual
RA	Results Areas
RDNA	Rapid Damage and Needs Assessment
RISE	Resilient, Inclusive and Sustainable Enterprise Project
SB	Supervisory Board
SDR	Special Drawing Rights
SEA/SH	Sexual Exploitation and Abuse/Sexual Harassment
SME	Small and Medium Enterprises
TA	Technical Assistance
TF	Trust Fund
UAH	Ukrainian Hryvnia
URTF	Ukraine Relief, Recovery, Reconstruction, and Reform Trust Fund
US\$	United States Dollar
USD	United States Dollar
WB	World Bank
WBG	World Bank Group

## EXECUTIVE SUMMARY

### **Program Description**

The proposed Resilient, Inclusive and Sustainable Enterprise (RISE) Project aims to address critical challenges to increased private sector participation, and in particular by SMEs, in the reconstruction and future growth of Ukraine’s economy. The Program Development Objective (PDO) is to improve the enabling environment for a sustainable private sector-led recovery in Ukraine. The Program will support the implementation of selected components of the Government’s National Economic Strategy (NES) 2021-2030 and the Ukraine Plan 2024-2027. More specifically, it will support the implementation of selected reforms and investments, under the NES and Ukraine Plan, led by the Ministry of Economy (MoE) and other agencies aiming to improve conditions for private sector growth and provide support to firms. It will support the objectives of 1) improving the efficiency of the portfolio of public firm support programs, 2) improving the business environment through the enhanced provision of government-to-business (G2B) digital services, and 3) enabling SME access to export markets. The Program will have a nationwide scope (excluding territories temporarily no longer under the government’s control and territories close to the frontline) and will align with the implementation period of the Ukraine Plan. The total IBRD (World Bank) financing will be US\$1.03 billion (See Section 1).

### **Hybrid approach to WB financing instruments:**

The proposed Program takes a hybrid approach to financing via supporting a Program for results (PforR) and an investment project financing (IPF) focusing on technical assistance in order to support GoU in achieving its objective: (i) a Program-for- Results (PforR) component; and (ii) a Technical Assistance (TA) component for the implementing entities, which will be implemented as an IPF to address critical institutional development and capacity gaps within implementing institutions. This ESSA focuses on E&S concerns associated with the PforR component and will be supporting the management, mitigation and monitoring efforts of the implementing entities to be supported under the Program. The IPF component will be managed by the WB ESF.

### **ESSA Methodology**

The ESSA was prepared by the World Bank’s assessment team through a combination of reviews of existing program materials and available technical literature as well as interviews with government staff, non-governmental organizations, community members and development partners. The ESSA (a) examines the scope, context, and potential impacts of the Program from an E&S perspective; (b) assesses in detail the different E&S effects under the Program activities, including indirect and cumulative effects, contextual and political risks related to the E&S issues; (c) assesses the capacity of national bodies in addressing related E&S risks and identify any complex risks in implementing E&S measures; (d) compares the borrower’s systems (laws, regulations, standards, procedures, and implementation performance) against the PforR’s following **six core principles**; and (e) formulates recommended measures to address capacity for and performance on policy issues and specific operational aspects relevant to managing program risks. As part of the PforR appraisal process, further consultations will be conducted with key stakeholders. The findings, conclusions and opinions expressed in the ESSA document are those of the World Bank.

- 1) **promote environmental and social sustainability** in the PforR Program design; **avoid, minimize or mitigate adverse impacts**, and promote informed decision-making relating to the PforR Program’s environmental and social impacts;
- 2) **avoid, minimize or mitigate adverse impacts on natural habitats and physical cultural resources** resulting from the PforR Program;
- 3) **protect public and worker safety** against the potential risks associated with: (i) construction and/or operations of facilities or other operational practices under the PforR Program; (ii) exposure to toxic

- chemicals, hazardous waste, and other dangerous materials under the PforR Program; and (iii) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards;
- 4) **manage land acquisition and loss of access to natural resources** in a way that avoids or minimizes displacement, and assist the affected people in improving, or at the minimum restoring, their **livelihoods** and living standards;
  - 5) give due consideration to the cultural appropriateness of, and equitable access to, PforR Program benefits, **giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups**;
  - 6) **avoid exacerbating social conflict**, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

### **Anticipated E&S Benefit**

The Program will have a number of positive **environmental** effects resulting from enhancing green competitive policies (such as adoption of the ESG requirements) for financial institutions that support SMEs. The Program will also have positive **social** effects, in particular the creation of job opportunities in SMEs, which account for over 80 percent of private sector jobs, and improved labor and working conditions in such SMEs through the enhanced E&S risk management and monitoring systems of the financial institutions.

### **Potential E&S Risks and Impact and Risk Classification**

While the client government institutions will not directly engage with physical interventions, the business activities of the SMEs supported by the Program may have potential E&S risks and impacts related to localized construction/expansion of business facilities as well as operation/manufacturing. The E&S risks and impacts of the individual Program activities are not anticipated to be large scale or irreversible (if the exclusion criteria are duly applied). The overall E&S risks are considered “**Substantial**” as per the WB ESSA Guidance (with appropriate exclusions and mitigations presented in the ESSA) (See Section 2).

The main potential negative **environmental** impacts are associated with the effects of business activities of SMEs in diverse sectors under DLIs/DLRs. While the scale of business activities of SMEs are relatively limited, their activities may have potential environmental risks and impacts related to:

- (i) construction as well as operation-related pollution (including air, water, soil pollution; waste management);
- (ii) resources utilization, biodiversity impacts and cultural heritage impacts;
- (iii) OHS and community health and safety; and
- (iv) Institutional E&S capacity constraints.

The main potential negative **social** impacts associated with business activities of SMEs will include:

- (i) risks related to labor and working conditions of SMEs workers (including vulnerable groups of workers and workplace SEA/SH risks);
- (ii) potential resettlement risks and impacts caused by land purchase by SMEs (such as on informal users) is deemed limited (the client government institutions will not directly acquire lands for the Program). The Program is not likely to cause negative changes in land use pattern and/or resource use;
- (iii) exclusion of vulnerable groups where the business owners of SMEs have limited access to the Program (such as female business owners or those in remote areas or who have limited access to ITs) is deemed limited. MoE has a proven track record in implementing programs ensuring the inclusion of vulnerable groups in the project design and implementation, developing projects that target veterans, IDPs, people with disabilities and elderly, youth group, and women’s groups. MoE

can utilize a participatory approach to project design through public consultations with project beneficiaries and affected parties. MoE has an adequate information flow at the regional (oblast) and grass roots levels to ensure a participatory approach the decentralized planning process to the subproject design and implementation.;

- (iv) social tensions or conflicts/grievances over the Program if the relevant implementing institutions have inadequate grievance redress systems (a grievance mechanism is in place in MoE to mitigate complaints from the communities); and
- (v) safety risks related to war hazards (such as ERW, landmines and aerial strikes) which could affect business activities.

#### **Expenditures with potentially significant E&S risks and impacts:**

While the most support programs in the Expenditure Program (approximately 95% of the total US\$1,000 million) are broadly limited in scale and the potential E&S risks and impacts are similar to those identified under DLIs/DLRs, some programs to be supported under the Expenditure Program could have potentially significant E&S risks and impacts associated with significant infrastructure investment. The exclusion criteria and additional E&S risk mitigation measures for these programs/schemes are provided (see Sections 2 and 7).

#### **Legal and Regulatory Framework**

The GoU has developed national environmental legislation and adopted new laws and regulations together with a number of programs and action plans to address environmental issues and promoted sustainable use of natural resources. The country has adopted several subsidiary laws and legislation on environmental management and is a party to series of international and regional environmental agreements and conventions. The country also has the nature protection policy and the implementation of measures in the field of rational use of natural resources and environmental protection are ongoing. On the social side, the country has developed relevant legal and regulatory frameworks which cover key social issues, including land acquisition and resettlement, labor and working conditions and social inclusion and sustainability. The ESSA provides a concise assessment of the country's E&S legal and regulatory framework on the six core principles under WB's PforR Policy, which are deemed applicable to the proposed Program, including its strengths and challenges (see Section 3). The ESSA concludes that, in general, the rules and regulations of the E&S management system applicable to the proposed PforR are consistent with the Bank PforR Policy and Directive, while the capacity to effectively implement certain SME-support programs could be improved. Thus, several recommendations are made to address these shortcomings and are included in the Program Action Plan (PAP).

#### **Institutional Capacity Assessment**

Ministry of Economy (MoE) is the implementing agency of the proposed Program, which will manage individual programs to support SMEs. The salient characteristics of these programs (such as nature, type and scale of activities) and relevant E&S capacity of the managing units have been assessed. Other than the BDF where the WB has been supporting its E&S capacity through separate IPF operations, the E&S capacity of the MoE would benefit from extensive support, together with other implementing agencies in the proposed Program (EEPO, ECA and Innovation Development Fund) (See Section 4).

#### **Comparative Analysis of Borrower E&S System And World Bank Core Principles**

Key findings from the E&S systems assessment are summarized below, including on the strengths and areas for improvement of the current system which will inform the proposed gap-filling/mitigation measures to ensure that the Program is managed in a manner consistent with the Core Principles of the Bank's PforR Policy (See Section 5).



**1. Core Principle 1 (Environmental and Social Sustainability and Risk Management) and 2 (Natural Habitats and Physical Cultural Resources)**

**Strengths**

- Ukraine has formally **aligned its legislation with the EU’s** Environmental Impact Assessment (EIA) Directive and the Directive on Strategic Environmental Assessment. Also, after signing the Association Agreement with the EU, Ukraine became a signatory to environmental and sustainable development international conventions and adopted a wide range of legal acts and programs.
- **The scope of Ukrainian environmental legislation is comprehensive** (more than 300 legal acts) and covers most areas of environmental protection and natural resources management.
- **The BDF (which consists of 70% of the Program expenditure) has a robust ESMS** supported under WB IPF operation (ARISE Project).
- There is a 24-hour hotline “Government contact center” (<https://ukc.gov.ua/>) and 0 800 500 115 - Hotline of the Ministry of Environment for grievances on issues of protection of the environment and natural resources of Ukraine.

**Weaknesses/Areas for improvement**

- **The legislation does not have all the essential enforcement mechanisms** for implementing legal acts and international agreements, especially due to limited capacity of responsible authorities due to ongoing war. Many of the acts are not coherent.
- WB’s past and current operational experience in the country and practical information from similar construction sites show that some of **the national legislation on OHS, community health and safety, waste management and resource efficiency are sometimes overlooked and/or neglected** – partially, due to the lack of knowledge of the workforce, due to the lack of supervision and guidance, but also to speed up the process and save the budget (for mitigation measures).
- **The E&S capacity of MoE**, the lead implementing agency, would benefit from extensive support.
- **Inadequate EHS guidelines for SME operations.**

**2. Core Principle 3 (Public and Worker Safety)**

**Strengths:**

- Ukrainian legislation on labor protection consists of the Law of Ukraine “On Labour Protection” and many bylaws. The scope of Ukrainian labor legislation includes norms related to creation of safe and harmless working conditions, occupational health, rights to labor protection during the conclusion of an employment contract, guarantees for people with disabilities, the rights of employees to safety during work, the right of employees to benefits and compensation for difficult and harmful working conditions, compensation for damage in case of damage to the health of employees or in case of their death as well as liability for violation of labor protection legislation and recommendations for employers and employees during martial law. The activities of the state supervisory bodies for labor protection are regulated by the Law of Ukraine “On Labor protection”, the Civil Protection Code of Ukraine, Law of Ukraine “On ensuring the sanitary and epidemic welfare of the population” and others. In addition, MoE is developing a new labor Code, which will include norms about safety and health of employees at work, which will be aligned with best practices. **Efforts are underway to improve the compliance of Ukraine’s OHS legal framework with key international and European standards on OHS and labor relations.**
- **Ukraine adopted the Barrier Free Environment Strategy for the period up to 2030 and approved the Action Plan for 2024-2025, which, inter alia, includes a section related to economic barrier-free environment (providing conditions and opportunities for employment, entrepreneurship of young**

**people, women, elderly people, people with disabilities, etc.).** An advisory body, the Barrier-Free Environment Council, was established under the Cabinet of Ministers: the Council is chaired by the Prime Minister of Ukraine and involves a number of stakeholders: Office of the President of Ukraine, 15 ministries and central executive bodies, 24 RMAs (regional military administrations), KMMA (Kyiv Municipal Military Administration), territorial communities, as well as international and Ukrainian expert organizations, representatives of business communities and civil society organizations. Involved institutions regularly provide reports on Action Plan implementation within their area of competences: the reports of the State Labour Service of Ukraine, which mandate lies within the worker safety domain, are shared publicly on the regular basis. Also there is free primary legal assistance provided in the premises of the State Labor Service.

- MoE implements **support programs focused on compensation for the employer's labor costs for the employment of internally displaced persons as well as compensation for arranging the workplace of a person with a disability** at the expense of the Mandatory State Social Insurance Fund.

**Weaknesses/Areas for improvement:**

- **The high incidence rates of work-related accidents and occupational diseases** indicate that a lot remains to be done, when it comes to the prevention of occupational risks and the promotion of the safety, health and well-being of workers.
- **These gaps and shortcomings are further exacerbated by the ongoing conflict situation.** Accidents with fatal consequences caused by hostilities constitute almost half of the total fatal injuries at work in the conditions of conflict.
- Lack of support by MoE to **SME's EHS**.

**3. Core Principle 4 (Management of Land Acquisition and Involuntary Resettlement)**

**Strengths:**

- While **the client government institutions will not directly engage with physical interventions**, the proposed Program will not envisage any compulsory land acquisition and involuntary physical and economic displacement caused by the client government institutions.

**Weaknesses/Areas for improvement:**

- In Ukraine, the right to dispose of land and other property are based on registration of ownership. **There are some gaps between the national regulations and WB standards** (such as support to informal users and livelihood restoration).

**4. Core Principle 5 (Inclusion of Vulnerable Groups)**

**Strengths**

- **The Ukrainian regulatory framework contains a wide range of policies and legislation at various administrative levels pertaining to gender and social inclusion, and relevant to inclusive access of program benefits for vulnerable groups.**

**Weaknesses/Areas for improvement:**

- There is potential that **vulnerable groups might be excluded from Program benefits** due to a variety of reasons (such as gender, remoteness, disabilities, digital literacy).

**5. Core Principle 6 (Avoidance of Social Conflict)**

**Strengths**

- **There are a number of national policies and regulations that cross cutting systems for stakeholder engagement and information disclosure across all the program activities.**

- The Law of Ukraine "On Citizen Appeals" provides the right to file observations, complaints and proposals with the government authorities, local governments, citizens associations, enterprises, institutions, organizations.
- The Law of Ukraine "On Access to Public Information" defines the procedure for exercising and ensuring everyone's right to access information that is in the possession of subjects of authority and information that is of public interest.
- There is Service of Mine Action Countermeasures of the State Emergency Service of Ukraine (SESU; <https://mine.dsns.gov.ua/>), which contains an interactive map of areas that could potentially be contaminated by explosive objects and provide the possibility to report about mines. Under SESU supervision, regular training on civil protection is provided for businesses.
- There is a functional Register of damaged and destroyed property in Ukraine and the Procedure for compensation for it from the state. Affected owners can apply for compensation online via Diia. Portal (<https://diia.gov.ua/services/poshkodzhene-majno>).

**Weaknesses/Areas for improvement:**

- Ukrainian legislation, relative to international good practice, is **absent the possibility of anonymous grievances**.
- **While BDF, Innovation Development Fund and EPF have their own grievance system, their functionality could be reviewed and strengthened.**
- **No effective E&S system is available to address safety risks related to war hazards** (such as ERW and aerial strikes), which could affect business activities of SMEs.

**Stakeholder Engagement**

- **Consultation Event for Preparing ESSA (May-June, 2024):** For the preparation of this ESSA, the Bank task team undertook a series of meetings with different stakeholders, including the following. The consultation meetings were organized online in May 22-28 with relevant government institutions and with the CSO group on June 28, 2024. No site visits were conducted due to the security concerns in the country. The outcomes of the consultations have informed the ESSA, including the assessment of the regulatory and framework, the institutional capacity and community engagement program (the list of persons met is provided in Annex 1).
- **Consultation Event for Finalizing ESSA (July 24, 2024):** Further consultations were undertaken in an inclusive manner before the completion of appraisal, which consisted of formal public consultations with key stakeholders. The inputs are considered and incorporated into the final ESSA (See Section 6).
- **Document Dissemination and Public Disclosure:** The draft ESSA will be translated into Ukrainian languages and shared with the stakeholders and publicly disclosed before the public consultation. The final report will be disclosed publicly in-country and at the World Bank's website before the board approval.

**Conclusion and Recommendations**

Based on the above assessment, a series of measures and actions are recommended for the proposed Program to address the identified gaps between the government E&S management system and the core principles of the Bank's PforR Policy. These would ensure that the proposed program be managed in a manner consistent with the Core Principles. These recommendations shall be integrated in the following. They will be also embedded in the POM for operationalization, as appropriate. Their effectiveness will continue to be monitored and adjusted throughout the program life (See Section 7):

- (i) **Excluded activities** (such as large-scale construction and rehabilitation work with significant E&S risks and impacts; large-scale land acquisition and involuntary economic and physical resettlements; significant conversion or degradation of critical natural habitats or critical physical cultural heritage; support to activities for military purposes/clusters.)
- (ii) **Relevant DLIs/verification protocol** for promotion of green competitiveness through ESG requirements (via BDF)
- (iii) **The Program Action Plans (PAPs)** (such as appropriate E&S staffing and institutional capacity development of government institutions; Operationalization of POM with E&S guidelines; Promotion of the EHS international good practice among SMEs; Inclusive community engagement program; Improvement of functional grievance systems; Regular and incident program reporting; Conduct of E&S audit to exclude activities with significant E&S risks and impacts; and including E&S expertise in the IVA to monitor E&S mitigations).

# 1 INTRODUCTION

## Program Description

1. The proposed Program aims to address critical challenges to increased private sector participation, and in particular by SMEs, in the reconstruction and future growth of Ukraine’s economy. The Program Development Objective (PDO) is to improve the enabling environment for a sustainable private sector-led recovery in Ukraine. **The Program will support the implementation of selected components of the Government’s National Economic Strategy (NES) 2021-2030 and the Ukraine Plan 2024-2027.** More specifically, it will support the implementation of selected reforms and investments, under the NES and Ukraine Plan, led by the Ministry of Economy (MoE) and other agencies aiming to improve conditions for private sector growth and provide support to firms. It will support the objectives of 1) improving the efficiency of the portfolio of public firm support programs, 2) improving the business environment through the enhanced provision of government-to-business (G2B) digital services, and 3) enabling SME access to export markets, as prioritized under Directives 3, 5, 7, and 17 of the NES 2021-2030, and Pillar 1 of the Ukraine Plan 2024-2027. Digitalization of government services for the private sector and support for the green transition will be important cross-cutting themes. The Program, which will include both ongoing and new activities, will have a strong focus on strengthening the GoU’s institutional capacity to design, implement, monitor and evaluate private sector development programs. The Program will have a nationwide scope (excluding territories temporarily no longer under the government’s control and territories close to the frontline ) and will align with the implementation period of the Ukraine Plan. Table 1 summarizes the alignment of the Government Program and the Program supported by the PforR Operation by results areas.

**Table 1. RISE – Scope**

	<b>Government program (National Economic Strategy and Ukraine Plan)</b>	<b>Program supported by the PforR</b>	<b>Reasons for non-alignment</b>
Objective	Strengthen resilience of SMEs in the face of economic impacts of the current circumstances and foster recovery in short run while also improving the productivity, competitiveness and growth of the MSME sector in the long run.	Strengthening institutions and markets to enhance MSME performance.	The PforR is fully aligned with the NES and Ukraine Plan objectives, but with prioritized focus on facilitating: (i) institution-building; (ii) improve efficiency of state programs to SMEs, with a focus on green competitiveness; (iii) improve business environment and G2B digital services; and (iv) enabling SMEs access to export markets.
Duration	<i>2021-2030 (NES) 2024-2027 (Ukraine Plan)</i>	<i>2024-2027</i>	The PforR supports four years of the reform program implementation based on availability of funding.
Geographic coverage	<i>All the country</i>	<i>All the country</i>	
Results areas	NES Direction 3. Regulatory environment  NES Direction 5. International economic policy and trade	(i) Institution-building; (ii) improve efficiency of state programs to SMEs, with a focus on green competitiveness; (iii)	The PforR is fully aligned with the NES and Ukraine Plan results areas, but with prioritized focus on facilitating: (i) institution-building; (ii) improve efficiency of state programs to

	NES Direction 17. Entrepreneurship Development  Ukraine Plan: Chapter on Business Environment including cross- cutting themes: transition to a green, digital, and inclusive economy	improve business environment and G2B digital services; and (iv) enabling SMEs access to export markets.	SMEs, with a focus on green competitiveness: (iii) improve business environment and G2B digital services; and (iv) enabling SMEs access to export markets.
Financing Amount <sup>1</sup>	USD 3,459mln	USD 2,744.8mln	

## Results Areas

### 2. **Results Area 1: Improving efficiency of state support to SMEs, with a focus on green competitiveness.**

This result area will strengthen the GoU’s capacity to deliver more and better technical and financial support services to firms, and it will also support green competitiveness by ensuring firm support programs foster the adoption of environmental and social standards (ESG) by the relevant Ukrainian financial institutions. Key activities and outputs include: 1) a multiphase and regular Policy Effectiveness Review (PER) of the overall policy mix and program portfolio in support of SMEs and subsequent redesign of key enterprise support programs based on PER results, including the 5-7-9 Program, 2) financing and delivery of the redesigned firm support programs, 3) adoption of an institution wide Environmental and Social Policy by BDF’s majority independent Supervisory Board and amendments to Resolution 28 mandating banks participating in the 5-7-9 Program to have environmental and social management systems in place. Financing for grants, matching grants, soft loans, advisory services, consulting technical expertise, and salaries of public officials involved in the administration of the firm support programs and of implementing the reforms under this results area will support the implementation of the activities. The combination of the activities and outputs under Results Area 1 will lead to the following outcomes: a) increased efficiency of firms support programs as measured by the improved average PER score, b) increased outreach of redesigned firm support programs and mobilization of private capital, c) strengthened ESG frameworks enabling an increased number of financial intermediaries and beneficiaries of firm support programs to comply with international sustainability standards, and d) increased number of jobs created or maintained by redesigned firm support programs.

3. **Results Area 2: Improving the Business Environment and G2B Digital Services.** This result area will support ongoing efforts of the GoU to streamline the regulatory environment governing business entry, operation and exit by further digitalizing related procedures and government-to-business (G2B) services. It will also support the government’s efforts to implement a more effective investment promotion and facilitation policy, with a focus on green sectors, through the development of a new FDI strategy embodying a unified and consensual vision by the GoU. Key activities and outputs include: 1) the launch of the DiiA. Business Portal 2.0 aimed at better supporting firms in developing and scaling their businesses, 2) full deployment of the E-permit G2B digital platform as part of the wider de-regulation action plan, and 3) adoption of a strategic framework for investment facilitation with a green economy focus. Financing for hardware, software, system installation and upgrading costs, advisory services, consulting technical expertise, and salaries of public officials involved in the launch and deployment of the DiiA. Business Portal 2.0, upgrading of the E-permit system, delivery of G2B services across all relevant platforms of the GoU, and design and launch of the new FDI strategy will support the implementation of the activities under this results area. The combination of the activities and outputs under

<sup>1</sup> Amounts include US\$ 1 bln of PCM.

Results Area 2 will lead to the following outcomes: a) increased number of firms using the Diia. Business Portal 2.0 with associated benefits in terms of increased G2B digital services, reduction of administrative compliance burden (time and cost savings), and increased transparency, b) increased number of firms using the E-permit system with associated benefits of reduction of administrative compliance burden (time and cost savings), and increased transparency, and c) increased potential investment leads as a result of better investment targeting and aftercare associated with the new FDI strategy.

4. **Result Area 3: Enabling SMEs Access to Export Markets.** This result area will support the GoU's effort to improve firms' export capacity and access to foreign markets. It will strengthen the institutional capacity and product offering of the new Export Credit Agency (ECA) and of the Entrepreneurship and Export Promotion Office (EEPO). It will also support the agenda of the GoU of harmonizing Ukrainian product quality, safety, energy efficiency, environmental, and overall sustainability standards with the EU. Key activities and outputs include: 1) financing and delivery of the export promotion programs and business consulting services (online and through the Entrepreneurs Support Centers) of the EEPO, 2) launch of the new ECA strategy and development of new risk insurance products, 3) financing and delivery of capacity building and technical assistance certification programs to enable SMEs' compliance with harmonized EU product standards. Financing for grants, operational costs of export promotion, business consulting, and capacity building programs, advisory services, consulting technical expertise, and salaries of public officials involved in the administration of the programs of the ECA and the EEPO, and of the development of the new ECA strategy and risk insurance products, will support the implementation of the activities under this results area. The combination of the activities and outputs under Results Area 3 will lead to the following outcomes: a) increased number of SMEs participating in export promotion programs and receiving business consulting services by the EEPO, with associated benefits in terms of potential export contracts, improved business practices and export readiness, b) increased access by SME exporters to export credit and war risk insurance provided by ECA, and c) increased number of firms certification-ready through participation to capacity building programs on EU harmonized standards.

5. **The PforR will be implemented over three years at an estimated total cost of US\$2.74 billion.** The total IBRD financing will be US\$1 billion. The first phase of the Operation is planned for US\$550 million and US\$10 million financed by the URTF that support the IPF. This leaves a financing gap of US\$450 million for PforR and US\$20 million for the IPF needed to fully accomplish the operation's objective. Due to financing source constraints, the current IBRD financing amount of US\$ 250 million will need to be disbursed during the 2024 calendar year. Withdrawal of up to 25 percent of the financing amount will be made against prior results achieved between the date of the program concept review and the date of the Legal Agreement. Further withdrawals will be made against DLIs achieved after date of the Legal Agreement. However, there may be a need to provide an advance towards expenditures related to DLIs that will be achieved after December 31, 2024. The support for reform implementation in 2025 and 2026 of US\$450 million (financing gap for PforR) is expected to be funded through future donor contributions in the form of guarantees and grants.

### **ESSA Methodology**

6. The ESSA was prepared by the World Bank's assessment team through a combination of reviews of existing program materials and available technical literature as well as interviews with government staff, non-governmental organizations, community members and development partners. As part of the PforR appraisal process, further consultations will be conducted with key stakeholders. The findings, conclusions and opinions expressed in the ESSA document are those of the World Bank.

7. The scope of the ESSA covers the activities and systems necessary to achieve the Program Development Objectives (PDO), the expenditure program and the defined Results Areas and the DLIs. The ESSA assess the



potential E&S effects of the Program and examines the client’s E&S system to determine the consistency with the following six (6) E&S Core Principles as described in the WB PforR Policy:

- 1) **promote environmental and social sustainability** in the PforR Program design; **avoid, minimize or mitigate adverse impacts**, and promote informed decision-making relating to the PforR Program’s environmental and social impacts;
- 2) **avoid, minimize or mitigate adverse impacts on natural habitats and physical cultural resources** resulting from the PforR Program;
- 3) **protect public and worker safety** against the potential risks associated with: (i) construction and/or operations of facilities or other operational practices under the PforR Program; (ii) exposure to toxic chemicals, hazardous waste, and other dangerous materials under the PforR Program; and (iii) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards;
- 4) **manage land acquisition and loss of access to natural resources** in a way that avoids or minimizes displacement, and assist the affected people in improving, or at the minimum restoring, their **livelihoods** and living standards;
- 5) give due consideration to the cultural appropriateness of, and equitable access to, PforR Program benefits, **giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups**;
- 6) **avoid exacerbating social conflict**, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

8. The key steps of the ESSA are the following:

- **Review of the baseline** environmental and social information to understand the context under which the Program activities are undertaken.
- **Analysis of environmental and social benefits and risks** of the Program activities.
- **Assessment of the borrower’s systems** for environmental and social management for planning and implementing the Program activities for consistency with the applicable Core Principles.
- **Identification of procedural and policy gaps** with Bank Policy and Directive for Program-for-Results Financing (notably the six Core Principles) as well as performance constraints in carrying out environmental and social management processes.
- **Development of a set of actions to strengthen the systems** and improve environmental and social performance outcomes of the Program.

9. The methodology included three distinct elements: (i) the first consisted of interviews with concerned agencies and other key stakeholders, which was undertaken by the Bank task team in May 22-28 and June 28, 2024; (ii) the second consisted of a review of documents, literature and data available at key agencies on the legal and regulatory frameworks related to environment and social risk management including grievance management systems; and (iii) the third consisted of a national level stakeholder consultation workshop to assess possible E&S impacts on different categories of stakeholders. The national level stakeholder consultations were organized on July 24, 2024, and the outcomes of the consultations are incorporated in the analysis – the discussions are detailed below in Chapter 6– Stakeholder Consultation and a list of participants is attached as Annex 1. The draft ESSA is disclosed publicly and shared with the stakeholders before the consultations and prior to appraisal. The final ESSA will be disclosed before the approval of the Program.



## 2 EXPECTED ENVIRONMENTAL AND SOCIAL EFFECTS

10. **Salient E&S characteristics of the proposed Program:** The Program will support the implementation of selected reforms and investments, under the NES and Ukraine Plan, led by the Ministry of Economy (MoE) and other agencies aiming to improve conditions for private sector growth and provide support to firms. It will support the objectives of 1) improving the efficiency of the portfolio of public firm support programs, 2) improving the business environment through the enhanced provision of government-to-business (G2B) digital services, and 3) enabling SME access to export markets. The Program will have a strong focus on strengthening the GoU’s institutional capacity to design, implement, monitor and evaluate private sector development programs. The Program will have a nationwide scope (excluding territories temporarily no longer under the government’s control and territories close to the frontline). While the client government institutions will not directly engage with physical interventions, the business activities of the SMEs supported by the Program may have potential E&S risks and impacts related to localized construction/expansion of business facilities as well as operation/manufacturing.

11. **Overall E&S benefit:** The Program will have a number of positive **environmental** effects resulting from enhancing green competitive policies (such as adoption of the National Energy and Climate Plan of Ukraine 2025-2030 and ESG requirements) for financial institutions that support SMEs. The Program will also have positive **social** effects, in particular the creation of job opportunities in SMEs, which account for over 80 percent of private sector jobs, and improved labor and working conditions in such SMEs through the enhanced E&S risk management and monitoring systems of the financial institutions.

12. **Screening and classification of key E&S risks and impacts:** This section provides the summary of potential key E&S risks and impacts associated with (A) each DLI/DLR and (B) the expenditure program, which the Bank team has identified through discussions with key stakeholders and analysis of available information (No site visits were conducted due to the security situations in the country). Based on the assessment of (i) likely E&S effects, (ii) contextual risk factors, (iii) institutional capacity and complexity risks and (iv) political and reputational risks undertaken by the Bank team (which are presented in this ESSA and the PAD), the overall E&S risks are considered “**Substantial**” as per the WB ESSA Guidance<sup>2</sup> with appropriate exclusions and mitigations presented in the ESSA. The Bank team will continue to monitor and revisit this classification throughout the Program implementation.

### **A. Potential E&S risks and impacts under DLIs/DLRs**

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<sup>2</sup> As per the E&S risk rating guide in the WB ESSA Guidance, the definition of “**Substantial**” E&S risk is as follows: “*There is a strong likelihood that that Program activities would lead to adverse E&S consequences. It is possible that the Program may not achieve its E&S operational objectives or sustain the desired E&S results because of context, institutional complexity, or reputational risks. However, these risks are less diverse or complex and many are more predictable than for a High-risk Program. Known and demonstrated risk management measures are likely available. While the borrower may have some demonstrated capacity to manage risks, it does not demonstrate this capacity consistently, and some E&S risks may still be beyond the direct control of the operation. The operation may have potential adverse environmental impacts, but they are less severe. Such impacts could be on environmentally or socially sensitive areas, but the operation is less likely to have a large footprint; impacts are site-specific and less diverse and complex; and there is less potential for strong synergistic or cumulative impacts. The operation may also have some adverse impacts on GHG emissions or may lead to change in the emissions intensity or efficiency. The operation may also present potential adverse effects on gender, vulnerable groups, poverty, or equity, and may have the potential to aggravate existing situations of fragility or conflict. The operation is less likely to be subject to national or international advocacy campaigns, but poor borrower performance could lead to significant complaints and grievances if affected people consider, or perceive, that the operation is leading to harm.*”

13. The main potential negative **environmental** impacts are associated with the effects of business activities of SMEs in diverse sectors across the country supported under the Program DLIs/DLRs. While the scale of business activities of SMEs are relatively limited, their activities may have potential environmental risks and impacts related to:

- (i) construction as well as operation-related pollution (including air, water, soil pollution; waste management);
- (ii) resources utilization, biodiversity impacts and cultural heritage impacts;
- (iii) OHS and community health and safety; and
- (iv) Institutional E&S capacity constraints. While some implementing agencies have operational experience with WB E&S policies/standards under IPF and PforR (such as MoF, and BDF), the E&S systems of other institutions (such as MoE) are found to be limited.

14. The main potential negative **social** impacts associated with business activities of SMEs supported under the Program DLIs/DLRs will include:

- (vi) risks related to labor and working conditions of SMEs workers (including vulnerable groups of workers and workplace SEA/SH risks);
- (vii) potential resettlement risks and impacts caused by land purchase by SMEs (such as on informal users) exist theoretically, but is deemed limited (the client government institutions will not directly acquire lands for the Program);
- (viii) exclusion of vulnerable groups where the business owners of SMEs have limited access to the Program (such as female business owners or those in remote areas or who have limited access to ITs). The exclusion of vulnerable stakeholders could also happen where stakeholder and citizen engagement processes are weak;
- (ix) social tensions or conflicts/grievances over the Program if the relevant implementing institutions have inadequate grievance redress systems; and
- (x) safety risks related to war hazards (such as ERW, landmines and aerial strikes) which could affect business activities.

DLIs	DLRs	Key Environmental Risks and Impacts	Key Social Risks and Impacts
<b>Results Area 1. Improving efficiency of state support to SMEs, with a focus on green competitiveness</b>			
<b>DLI 1.</b> Improving efficiency of state support to SMEs, with focus on green competitiveness	<b>DLR 1.1:</b> USD 200 mln loans issued under the redesigned 5-7-9 credit program (40 mln of which are loans to female headed firms)(scalable)	<ul style="list-style-type: none"> <li>•Potential environmental risks and impacts related to construction and operation related pollution (including air, water, soil pollution; waste management),</li> </ul>	<ul style="list-style-type: none"> <li>• Potential social risks and impacts related to land purchase by SMEs is assessed limited (<u>Core Principle 4</u>)</li> <li>• Potential socio-economic inequities if there is insufficient outreach to ensure</li> </ul>

DLIs	DLRs	Key Environmental Risks and Impacts	Key Social Risks and Impacts
	<p><b>DLR 1.2:</b> (i) improved average PER score of the redesigned firm support programs<sup>3</sup>, and (ii) 20,000 beneficiaries received financing and/or services from redesigned firm support programs<sup>4</sup></p> <p><b>DLR 1.3:</b> 40,000 jobs created or preserved by firms participating in redesigned firm support programs, of which 40% for women (scalable)</p>	<p>resources utilization (Core Principle 1)</p> <ul style="list-style-type: none"> <li>• Potential downstream biodiversity impacts and cultural heritage impacts (Core Principle 2)</li> <li>• Potential downstream OHS and community health and safety risks (Core Principle 3)</li> </ul>	<p>awareness about the program support and lack of inclusion of vulnerable groups, if there is inadequate stakeholder and citizen engagement processes. (Core Principle 5)</p> <ul style="list-style-type: none"> <li>• Weak functionality of the grievance mechanism, which could cause social tension (in all DLIs) (Core Principle 6)</li> </ul>
<p><b>DLI 2.</b> Enhanced compliance of SME financing programs with ESG requirements</p>	<p><b>DLR 2.1:</b> BDF’s Supervisory Board adopted its Environmental and Social Policy establishing principles and commitments of the BDF and PFIs towards sustainable and responsible investment practices in alignment with environmental, social, and occupational and community health &amp; safety requirements.</p> <p><b>DLR 2.2:</b> At least 20 banks accounting for 90 percent of the overall 5-7-9 lending volume adopted Environmental and Social Management System (scalable)</p> <p><b>DLR 2.3:</b> 30 % increase of SMEs financed under the 5-7-9 program in compliance with ESG requirements</p>	<ul style="list-style-type: none"> <li>• Positive environmental effects through adoption of ESG requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Positive social effects through adoption of ESG requirements</li> </ul>
<p><b>Results Area 2. Improving the Business Environment and G2B Digital Services</b></p>			
<p><b>DLI 3.</b> Simplified business regulation, including investment facilitation framework for</p>	<p><b>DLR 3.1:</b> Diia Business Portal 2.0 launched (accessible online to users) with functionalities in compliance with the TORs of the EEPO</p> <p><b>DLR 3.2:</b> (i) 500,000 unique visits of the Diia Business Portal 2.0, and (ii) 90,000 registered accounts (scalable)</p>	<ul style="list-style-type: none"> <li>• Broadly positive environmental effects through focus on the green economy</li> </ul>	<ul style="list-style-type: none"> <li>• Potential socio-economic inequities if there is insufficient outreach to ensure awareness about the digital services and lack of inclusion of</li> </ul>

<sup>3</sup> Detailed content, requirements, and methodology of the PER are specified in the verification protocol for DLR 1.2. The PER assesses the performance of SME support programs along the following functional dimension: Program Design, Implementation Mechanisms, Effective Resource and Management Quality, Monitoring and Evaluation, Systems Governance and Coordination among Programs, Continuous Learning and Programs Recalibration.

<sup>4</sup> Increased outreach of redesigned firm support programs is a key outcome of the proposed PforR as highlighted under point b) of paragraph 30 under Results Area 1. Only 8 percent of firms participated in support programs, with a lower rate of 6 percent among SMEs, as described in paragraph 6 of the Sectoral and Institutional Context Section.

DLIs	DLRs	Key Environmental Risks and Impacts	Key Social Risks and Impacts
the green economy	<b>DLR 3.3:</b> FDI Strategy adopted by the Cabinet of Ministers, including (i) focus on the green economy, and (ii) plans to modernize the Investment Policy and Promotion framework, including capacity building of the IPA agency. <sup>5</sup>		vulnerable groups, if there is inadequate stakeholder and citizen engagement processes. (Core Principle 5)
	<b>DLR 3.4:</b> 200,000 applications submitted via the e-permit system. <sup>6</sup> (scalable)		
<b>Results Area 3. Enabling SMEs access to export markets</b>			
<b>DLI 4.</b> Enabled SMEs access to export markets	<b>DLR 4.1:</b> 3,000 SMEs received business consulting services <sup>7</sup> (online or face-to-face) from EEPO (scalable)	<ul style="list-style-type: none"> <li>Positive environmental effects through promotion of sustainability standards</li> </ul>	1) Potential socio-economic inequities if there is insufficient outreach to ensure awareness about the export services and lack of inclusion of vulnerable groups, if there is inadequate stakeholder and citizen engagement processes. (Core Principle 5)
	<b>DLR 4.2:</b> New ECA strategy adopted providing for broadening of ECA’s product offering (including war risk insurance), integrating environmental sustainability into ECA’s policies and products as well as for development of a robust M&E framework.		
	<b>DLR 4.3:</b> 10 export-oriented projects of SMEs covered by ECA including for war risk in line with new ECA strategy (scalable)		
	<b>DLR 4.4:</b> Representatives of 500 firms completed capacity building programs on the EU harmonized product standards, including sustainability standards (scalable)		

**B. Potential E&S risks and impacts under the Expenditure Program**

15. **The PforR expenditure program for the GoU’s private sector reform agenda for 2024-2026 is approximately US\$2.74 billion.** The main subventions are dedicated to funding several firm support programs through diverse modalities– including soft loans and grants - which form the underlying expenditures of results area 1 focusing on improving the efficiency and ESG compliance of these programs. In addition, MoE salaries are included as an eligible expenditure in support of key interventions in the ecosystem related to improving the business environment and enabling SMEs access to export markets such as strengthening the strategic frameworks for investment facilitation and export credit, de-regulation and digitization as well as EU harmonization of product standards (results areas 2 and 3). Moreover, the EEPO budget program is dedicated to advisory services and technical assistance programs which have increasingly been provided online to

<sup>5</sup> Detailed content and requirements of the FDI Strategy are specified in the verification protocol for DLR 3.3.

<sup>6</sup> Benefits for firms usually associated with the use of e-permit systems relate to reduction of administrative compliance burden (time, cost, and resource savings), and increased transparency of G2B interactions and procedures.

<sup>7</sup> A non-exhaustive list of business consulting services provided by the EEPO to firms include: business intelligence on export markets, advisory on partnership agreements and export contracts with foreign buyers, advisory on trade facilitation and customs procedures, participation to international trade fairs, business mentoring on customized firm-level export plans, training on sustainable business practices, self-assessment tools on compliance with ESG requirements, energy efficiency advisory.

complement those provided in physical locations (results area 3). In the case of MoE salaries, WB’s ongoing IPF operation PEACE will finance the salaries in 2024 while the proposed Program will cover them in 2025 and 2026. Table below presents the key budget programs and the amounts allocated for 2024-2026.

16. **Expenditures with potentially significant E&S risks and impacts:** While most support programs in the Expenditure Program (approximately 95% of the total US\$1,000 million) are broadly limited in scale and the potential E&S risks and impacts are similar to those identified under DLIs/DLRs, the following programs/schemes to be supported under the Expenditure Program support could have potentially significant E&S risks and impacts. The exclusion criteria and additional E&S risk mitigation measures for these programs/schemes are provided in the Section 7 (Conclusion and Recommendations):

- **“Industrial Parks”** and **“Invest Nanny”** could include facilities with significant scale involving infrastructure investment, which could have a variety of E&S risks and impacts relevant to all 6 Core Principles, in particular those with green field development (the details on these programs are provided in Section 4). In accordance with subparagraph 10 of paragraph 5 of the Requirements for the Feasibility Study of an Investment Project with Significant Investments (to be supported under **“Invest Nanny”**), approved by the Resolution of the Cabinet of Ministers of Ukraine No. 515 dated May 19, 2021 (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 112 dated February 2, 2024), the feasibility study should contain an analysis of the environmental impacts and risks of the investment project. During the second stage of the assessment, the MoE sends the investment project for consideration, in particular, to the Ministry of Environment to analyze the environmental impacts and risks of the investment project: the presence of significant social and/or environmental risks that have a high probability of occurrence and a significant negative impact on the investment project or the environment, in the absence of an effective mechanism to mitigate the impact of such risks, is the basis for concluding that the investment project is inexpedient to sign the investment agreement according to Ukrainian legislation. The same logic applies to the **“Industrial Parks”** program. Taking into account the above mentioned, it is advised to strengthen the E&S requirements to projects through updating the regulation and to keep the Invest Nannies and Industrial Parks programs as eligible expenditures under the PforR for 2025-2027. At the same time, the facilities/activities supported under these two programs with potentially significant E&S risks and impacts should be excluded from the Program support, as per the WB PforR Policy and PforR ESSA Guidance, paras 14-16.
- **“Innovation Development Fund”** includes the “defence cluster” for military purposes, which should be excluded from the Program support to avoid exacerbating the social conflict as per Core Principle 6 (the current expenditure for Innovation Development Fund is “0” which could be modified during the program implementation.).

**Table: Government Expenditure Program**

Budget program	Activity name	Implementing agency	Budget					RA
			Share of budgeted Program in 2024	US\$ million[1]	UAH million			
					2024	2025 (est.)	2026 (est.)	

P505616 – Resilient, Inclusive and Sustainable Enterprise (RISE) Project  
 Environment and Social Systems Assessment (ESSA)

<b>1201450 - Financing of Business Development Fund</b>	Affordable Loans 5-7-9%	MoE / Business Development Fund	34%	220.0	9,000[2]	18,000	18,000	18,000	1
<b>1201360 - State support of projects with significant private investments</b>	Investment Nanny	MoE	11%	73.3	3,000	TBD [3]	TBD	TBD	1
<b>1201430 - Supporting internal demand for national products and services</b>	Made in Ukraine cashback program	MoE / Ministry of Digital Transformation	11%	73.3	3,000	TBD	TBD	TBD	1
<b>2901060 – Support of Innovation Development Fund [4]</b>	Innovation Development Fund	Ministry of Digital Transformation / Innovation Development Fund	0%	0	0	TBD	TBD	TBD	1
<b>411240 – Support of the Export Promotion Office</b>	Entrepreneurship and Export Promotion Office (EEPO)	Economics and Financial Department of the Secretariat of the Cabinet of Ministers of Ukraine / EEPO	0%	0.9	37	37	37	37	3
<b>1201310 - Partial compensation of the value of agricultural equipment produced in Ukraine</b>	Agricultural machinery and equipment grants	MoE	4%	24.4	1,000	TBD	TBD	TBD	1

P505616 – Resilient, Inclusive and Sustainable Enterprise (RISE) Project  
 Environment and Social Systems Assessment (ESSA)

<b>1201340 - State support for the creation of industrial parks</b>	Incentives for Industrial Park	MoE	4%	24.4	1,000	TBD	TBD	TBD	1
<b>1201350 – State grants for the creation or development of new businesses[5]</b>	eRobota	MoE / State Employment Center	3%	21.8	890.5	890.5	890.5	890.5	1
<b>1201010 - Leadership and Management in the Sphere of Economics [6]</b>	Salaries	MoE	0%	0	0	570.5	570.5	570.5	1, 2 and 3
<b>Total</b>			<b>100%</b>	<b>438.3</b>	<b>17,928</b>	<b>19,498</b>	<b>19,498</b>	<b>19,498</b>	
<b>Overall expenditure program (UAH million)</b>								<b>76,421</b>	
<b>Overall expenditure program (USD million)</b>								<b>1,756.8</b> [7]	
<p>[1] Exchange rate used: UAH 40.9 per US\$ in 2024 and UAH 43.5 per US\$ in outer years and totals.                  [2] 50 percent of budget allocation financed by ARISE in 2024 (agribusinesses).                  [3] Some programs have not been allocated budget yet for years 2025-2027. These amounts will be added to the expenditures program when budgeted.                  [4] Excluded in 2024 as a result of the FSA/ESSA findings.                  [5] This budget lines also include smaller funding windows to support investment in horticulture and the construction of greenhouses, which are managed with the Ministry of Agrarian Policy and Food, but these are excluded from the Program’s expenditure framework.                  [6] MoE salaries excluded in 2024 as covered by PEACE expenditures. As of 2025, these expenditures will be covered by RISE.                  [7] In addition, off-budget, USD 1 bn (UAH 43,500 bn) of commercial financing (volumes of loans provided under redesigned 579 program) is expected to be mobilized.</p>									



### 3 LEGAL AND REGULATORY FRAMEWORK FOR MANAGING THE PROGRAM'S ENVIRONMENT AND SOCIAL IMPACTS

17. **Overview:** The GoU has developed national environmental legislation and adopted new laws and regulations together with a number of programs and action plans to address environmental issues and promoted sustainable use of natural resources. The country has adopted several subsidiary laws and legislation on environmental management and is a party to series of international and regional environmental agreements and conventions. The country also has the nature protection policy and the implementation of measures in the field of rational use of natural resources and environmental protection are ongoing. On the social side, the country has developed relevant legal and regulatory frameworks which cover key social issues, including land acquisition and resettlement, labor and working conditions and social inclusion and sustainability. Below is the concise assessment of the country's E&S legal and regulatory framework on the six core principles under WB's PforR Policy, which are deemed applicable to the proposed Program (Annex 2 provides the detailed analysis of these E&S frameworks, including its strengths and challenges, which was prepared in the context of WB IPF and PforR operations in the country).

#### **Management of E&S Sustainability, Risk and Impacts (relevant to Core Principle 1)**

18. Ukraine has formally aligned its legislation with the EU's Environmental Impact Assessment (EIA) Directive and the Directive on Strategic Environmental Assessment. Also, after signing the Association Agreement with the EU, Ukraine became a signatory to environmental and sustainable development international conventions and adopted a wide range of legal acts and programs. The scope of Ukrainian environmental legislation is comprehensive (more than 300 legal acts) and covers most areas of environmental protection and natural resources management. However, the country's environmental legislation faces several weaknesses:

- The legislation is largely declarative in nature and does not have all the essential enforcement mechanisms for implementing legal acts and international agreements, especially due to limited capacity of responsible authorities due to ongoing war; and
- Many of the acts are not coherent with each other.

19. Environmental matters that should be considered during the construction and operation of civil infrastructure are generally governed by the Law of Ukraine On Environmental Protection, On the Protection of Atmospheric Air, On the Protection of Land, and On the Environmental Impact Assessment. State Construction Norms and State Sanitary Norms set specific standards for the construction of buildings and, depending on the construction class and its complexity, the construction may require a notification on commencement of the construction work or a building permit. All the potential risks of such activity (including OHS, community health and safety, biodiversity impacts, waste management, etc.) should be mitigated by the existing construction practices mandated by the vast collection of construction standards and norms, sanitary norms and rules, labor Code of Ukraine, legislative and normative base of protection of natural resources etc.

20. However, WB's past and current experience in the country and practical information from similar construction sites show that some of the national legislation on OHS, community health and safety, waste management and resource efficiency are sometimes overlooked and/or neglected – partially, due to the lack of knowledge of the workforce, due to the lack of supervision and guidance, but also to speed up the process and save the budget (for mitigation measures).



### **Natural Habitats and Physical Cultural Resources (relevant to Core Principle 2)**

21. Most of natural habitats in Ukraine either designated as Nature Protection Fund lands and are protected under relevant legislation, or (rarely) as forest lands with special use status. Ukraine's cultural heritage sites are protected by regulations under the Law of Ukraine "On Protection of Cultural Heritage." The Law of Ukraine "On Protection of Cultural Heritage" provides the foundation for protecting cultural heritage objects, requiring developers to obtain necessary approvals and permits before commencing work that could affect these sites. National regulations mandate that developers take into account restrictions on economic activities in areas with cultural heritage objects. A Chance Find Procedure ensures that any unexpected discoveries of cultural artifacts during construction are handled appropriately, preserving the nation's cultural heritage while allowing for necessary development.

### **Public and Worker Safety (Relevant to Core Principle 3)**

22. Ukrainian legislation on labor protection consists of the Law of Ukraine "On Labour Protection" and many bylaws (labor protection regulations, resolutions of the Ukrainian Government, sanitary standards, orders of ministries that clarify the provisions of this law). Recent EU-ILO Project 'Towards safe, healthy and declared work in Ukraine' was aimed to improve the compliance of Ukraine's occupational health and safety (OHS) legal framework with key international and European standards on OHS and labor relations, and, inter alia, to adequately and sustainably transpose into the national legal framework a set of EU Directives on OHS (such as Directive 89/391/EEC - OHS "Framework Directive" etc.). In addition, EU OHS Directives 2009/104/EC, concerning the minimum safety and health requirements for the use of work equipment by workers at work and 89/656/EEC, on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace, have been transposed to national legislation, through orders of the Ministry of Social Policy of Ukraine (MSP).

23. However, the high incidence rates of work-related accidents and occupational diseases indicate that a lot still remains to be done in Ukraine, when it comes to the prevention of occupational risks and the promotion of the safety, health and well-being of workers. These gaps and shortcomings are further exacerbated by the ongoing situation and related military hazards. For the OHS management system, hostilities become real external threats factors that significantly change the external and internal context of the enterprise and increase the risks of additional accidents at work, which are uncharacteristic for peacetime and have consequences of varying severity. In Ukraine as of April 2024, accidents with fatal consequences caused by hostilities constitute almost half of the total fatal injuries at work in the conditions of conflict.

### **Management of Land Acquisition and Involuntary Resettlement (relevant to Core Principle 4)**

24. The Constitution of Ukraine (Articles 13, 14, 41) stipulates that "no one shall be unlawfully deprived of the right for property. The right for private property shall be inviolable." and "The expropriation of private property objects may be applied only as an exception for the reasons of social necessity, on the grounds of, and in the order established by law, and on terms of advance and complete compensation of the value of such objects. The expropriation of such objects with subsequent complete compensation of their value shall be permitted only under conditions of martial law or a state of emergency." (Article 41). Law of Ukraine "On Alienation of Land Plots and Other Objects of Immovable Property Located Thereon in Private Ownership for the Social Needs and on the Grounds of Social Necessity" of 17.11.2009 No. 1559-VI stipulates legal, organizational, and financial principles of regulation of public relations arising in the course of acquisition of land plots, other property objects placed on them, owned by natural or legal persons, for public needs or for reasons of public necessity. Land Code of Ukraine (in particular, Articles 143, 146, 147, 149-151) which provides the grounds for the involuntary termination of land rights, acquisition of land for public needs and the procedure for conciliation of issues related

to the land acquisition for public needs or for reasons of public necessity. Civil Code of Ukraine (of 16.01.2003, No. 435-IV), which establishes the procedure for termination of title to immovable property due to the acquisition or alienation of the land on which the property is located, for national needs, and regulates issues related to the protection of property rights (Articles 3.50-351).

25. In Ukraine, the right to dispose of land and other property are based on registration of ownership. However, under the WB involuntary resettlement standard, affected persons are entitled to compensation whether or not they own a registered land or property title, if they occupy or use the land prior to the cut-off date. The focus of the WB standards is to mitigate the adverse impacts of poverty, where any adverse impacts occurring are directly or indirectly attributable to activities funded by the project. In cases where PAP have no ownership or tenure rights according to Ukrainian law due to lack of registration, the provisions of the Lender requirements will be applied in terms of their rights for compensation, consultation, and grievance mechanisms (More detailed gap analysis is provided in Annex 3).

#### **Inclusion of Indigenous Peoples and Vulnerable Groups (relevant to Core Principle 5)**

26. Ukrainian regulatory framework contains a wide range of policies and legislation at various administrative levels pertaining to gender and social inclusion, and relevant to inclusive access of program benefits for vulnerable groups. The 2013 Law on Principles of Prevention and Combating Discrimination in Ukraine endorses a general definition of discrimination, promoting the rights and freedoms of individuals discriminated against on the basis of sex, among other characteristics. Along these lines, the 2018–21 State Social Programme on Equal Rights and Opportunities of Women and Men intends to eliminate institutional and legal barriers to gender equality. In July 2021, the Ukrainian Parliament adopted a Law on “Indigenous Peoples”. While no Indigenous People are present in Ukraine who meet the criteria of the World Bank Policy, the Law provides a framework for the protection of the rights of certain vulnerable minorities in the Crimean Peninsula, namely Crimean Tatars, Karaites and Krymchaks. This Law protects the cultural, educational, linguistic and informational rights of such people. However, the full enforcement of rights and the implementation of the Law are hindered by the current occupation of Crimea (which is outside the scope of the Program).

#### **Avoidance of exacerbating social conflict (relevant to Core Principle 6)**

27. There are a number of national policies and regulations that cross cutting systems for stakeholder engagement and information disclosure across all the program activities. The right to information is a fundamental and protected by a law. In accordance with the Law of Ukraine "On Information," guarantees equal rights and opportunities for access to information to all subjects of information relations. At the national level, information dissemination and communication channels include official websites of government bodies such as the Verkhovna Rada of Ukraine, the President, and the Cabinet of Ministers, where all official information is posted. All government websites allow for electronic submission of inquiries directly through the site. Accessibility modes for citizens with visual and hearing impairments are available on all sites. The issue of digital accessibility of web resources is regulated by DSTU EN 301 549:2022. At the regional level, where active engagement of program beneficiaries should take place, several entities responsible for organizing dialogue with the public. The Mininfra, which currently serves as the administrator of the DREAM system. They are actively engaging all stakeholders in training on how to operate within the DREAM system.

28. The Law of Ukraine “On Information” declares that the main areas of the state information policy shall include ensuring that every person has access to the information. The Law of Ukraine "On Citizen Appeals" provides the right to file observations, complaints and proposals with the government authorities, local governments, citizens associations, enterprises, institutions, organizations. The Law on Citizens Appeals and the Law "On Access to Public Information," guarantees the citizens' right to address government bodies and define

the duties and timelines for handling such appeals by government bodies. The Resolution of The Cabinet of Ministers approved the “Classifier of Citizen Appeals, ” which establishes a typology for categorizing appeals according to the following criteria: by form of submission (via mail, in person, through government authorities, through the media, etc.); by submission characteristic (initial, repeated, multiple, mass); by type (suggestion, application, complaint); by gender (male, female); by subject (individual, collective, anonymous), and others. The practical realization of citizens' rights to access on public information and submission of appeals and complaints, ensured through a 24/7 Government contact Centre “National hotline 1554”, which provides various options for submitting inquiries, including options for people with disabilities (hearing and visual impairments). All inquiries received by local executive authorities or state institutions of other levels will be registered and classified according to the established state standards and internal document circulation procedures. All inquiries and responses will be stored in the authority to which they were addressed, and which provided the response. Ukrainian legislation, relative to international good practice, is absent the possibility of anonymous grievances. Section 8 of the Law "On Citizens' Appeals" directly specifies that anonymous appeals are not considered.

## 4 INSTITUTIONAL CAPACITY ASSESSMENT FOR MANAGING THE PROGRAM'S ENVIRONMENT AND SOCIAL EFFECTS

29. **Ministry of Economy (MoE)** is the implementing agency of the proposed Program. The following fund/units under the MOE will manage individual programs to support SMEs. The salient characteristics of these programs (such as nature, type and scale of activities) and relevant E&S capacity of the managing units have been assessed as follows. As highlighted below, other than the BDF where the WB has been supporting its E&S capacity through separate IPF operations, **the E&S capacity of the MOE would benefit from extensive support:**

- 1) **Business Development Fund (BDF):** the BDF provides various financial instruments to help Micro, Small, and Medium Enterprises (MSMEs), in addition to the 5/7/9 Program. These include: (i) subsidy Loans for Second-Tier Institutions: the BDF provides loans to Ukrainian banks, which in turn issue new loans to MSMEs. During the selection process, banks must ensure that MSMEs comply with social and environmental condition; (ii) capex Compensation; (iii) guarantees; (iv) grant Programs Coordinated with the EU for Business and GIZ. The aforementioned programs are universal and can encompass various activities. While **the BDF has established a robust ESMS with appropriate E&S staffing supported under the Bank-funded IPF operation (ARISE Project)**, the E&S capacity of the BDF could be further strengthened through the expansion of the team (with hiring additional E&S staff) and update and revise the Environmental and Social (E&S) screening/conditions ESMS that have been established for the 5/7/9 Program to ensure inclusion of other programs in the ESMS. Grievances and suggestions from stakeholders to BDF are accepted in the following uptake channels. The functionality of the BDF's Grievance mechanism is being reviewed and supported by the Bank task team for ARISE project.
  - Website: <https://bdf.gov.ua/kontakty>
  - E-mail address: [mail@bdf.gov.ua](mailto:mail@bdf.gov.ua)
  - BDF Facebook page
  - Phone number: +380-44-333-43-54
- 2) **State Grants for the Development of New Businesses:** Currently, two people are working in the department. There are **no staff responsible for E&S aspects**. Monitoring of E&S aspects are beyond the scope and responsibilities of department. Under the Program, the MoE provides grants to enterprises in the processing industry for their creation or development. The funds are allocated solely for the purchase, supply, and installation of machinery or equipment involved in processing. Resolution number 739 under Ukrainian law number 2109 (dated June 24, 2022) outlines the criteria for granting and the procedure for selecting and evaluating companies and business plans (the criteria does not include E&S aspects). The Program became active in July 2022, and since then, 530 grants (totalling 2.5 billion UAH) have been awarded out of 3700 applications submitted. The Program is part of the larger Project 'E-robota,' (estimate translation from Ukrainian 'There is job') aiming primarily at job creation. Grants are provided on a co-financing basis with the grantees: for de-occupied territories, the state provides 80% financing and grantees provide 20%; for other territories, it is a 50/50 split. The maximum grant amount is 8 million UAH. Enterprises that receive grants are required to return the funds within three years through taxes and create a certain number of new jobs (from 5 to 25). **Occupational health and safety (OHS)** of workers are not monitored by the bank or the MoE and are the responsibility of the employer, according to the Ukrainian legislation. Under Ukrainian law, the State labor Service ((Derzhpratsy) is responsible for monitoring OHS in manufacturing. Regarding the **GRM**, stakeholders can send requests

for information to the MOE. For example, if an application is rejected, the applicant can request information on why the application was rejected to correct it and submit it again. The channels for these requests are the official MoE website and the government hotline, as well as at the bank level. As of now, 5 state bank are involved in the program implementation already or as the participation agreement signing stage.

- 3) **Supporting internal demand for national products** (also referred to as ‘Cashback’): Cashback is a new program that will be financed under the state program ‘Supporting Internal Demand for National Products.’ The program is scheduled to launch in August-September 2024. The principal spending authority is the MoE, which will act through the “Made in Ukraine Fund.” The “Made in Ukraine Fund” will operate similarly to the BDF (5-7-9 Program). **Currently, there are no social and environmental specialists**, but there is potential to involve such specialists from other ministries. Individuals (not legal entities or entrepreneurs) will receive compensation for purchasing Ukrainian products. Ukrainian producers who want to participate in the program can register their products in “DIIA.” **Currently, there is no monitoring of compliance with E&S aspects for Ukrainian producers.** The Ukrainian producers and their products will be checked and approved by the “State Service of Ukraine on Food Safety and Consumer Protection.” In addition, the “Made in Ukraine Fund” will provide technical support to Ukrainian producers and review grievances. Following the example of the BDF, the “Made in Ukraine Fund” will set standards for the banks and monitor them. The program can include any type of product, with the requirement that the product is Ukrainian-made. Grievances from Ukrainian producers will be addressed by the “Made in Ukraine Fund.” **The GRM is still under development. There is currently no simple channel for individuals to submit grievances and resolve them at the program level** (while stakeholders can apply the MoE general grievance line with their request).
  
- 4) **Partial compensation of the value of agricultural equipment**: The MoE maintains a register of all agricultural machinery produced in Ukraine (approximately 6,600 items as of the time of ESSA drafting). Thirty Ukrainian banks are participating in this program. If an agricultural enterprise wants to buy agricultural machinery of Ukrainian production, it must submit a package of documents to the bank (including technical documentation on the machinery, information about the enterprise's standards, and availability of ISO9001 certification, etc.). The bank will check the machinery with the MOEs register. If it is in the register, the bank will compensate 25% of the cost of the machinery as a cash back to the escrow account of the agricultural enterprise. There are established criteria in the resolution for agricultural enterprises. Both the banks and the Ministry of Economy check if agricultural enterprises comply with these criteria. **E&S standards are not being checked because there are no established EU directives in Ukraine for agricultural equipment manufacturing.** There are also criteria for machinery producers described in the law. A study is currently being conducted by the EU, including environmental aspects and ESG. The results of this study will provide recommendations on how to integrate international best practices into the Program. The MoE gathers information about clients (agricultural enterprises that bought agricultural machinery) from the banks. **Compliance with OHS and other social and environmental aspects is the responsibility of agricultural enterprises.** For example, monitoring how workers handle equipment and/or machinery is beyond the competence of the MoE. The State Labor Service is responsible for this. **There are currently no policies regarding the Green Deal**, but if Ukraine accepts EU policies regarding the Green Deal, the Program could be revised. **There is a procedure for public consultations.** Announcements about consultations are disclosed through different agro associations. After the consultations, the Program could be updated to reflect the real situation in the agro market. Additionally, all information about the Program is published on the Ministry of Agriculture's

website. **There is one official system for receiving grievances through the MoE**, but this channel is not user-friendly and is very bureaucratic. There is a portal where machinery producers can evaluate the Program and send their feedback.

- 5) **Support to Industrial Parks:** The Law of Ukraine “On Industrial Parks” with the supportive legislation provides a variety of tools for development of industrial parks in Ukraine. **The unit managing this program has four staff who have limited E&S expertise. The Bank team could not identify any specific E&S regulations/guidelines/procedures for this program beyond the general national E&S laws/regulations** (under Law of Ukraine ‘On EIA’ industrial parks require an EIA to be cleared at the regional level). The following incentives are eligible to managing companies, companies-initiators and/or participants of industrial parks: (i) full or partial compensation of interest rates on loans for the purpose of arranging an industrial park, as well as for the purpose of carrying out economic activity within an industrial; (ii) non-refundable financing for the purpose of arranging an industrial park and/or construction of related infrastructure facilities (highways, communication lines, heat, gas, water and electricity, utilities, etc.); (iii) compensation for connecting to engineering grids (incl. compensation for connecting to the electric grid, national railway system, gas-, heat- and water supply networks); and (iv) various tax exemptions schemes. An initiator of industrial parks can be on land of state or communal property or on private property lands – owners or tenants (legal or natural persons). The land should meet the following requirements: (i) belong to industry lands; (ii) have an area of 10 to 1000 ha; (iii) be suitable for industrial use, taking into account the conditions and restrictions established by the relevant urban-planning documentation. The economic activities are conducted within industrial park only in the following spheres of economy:

- processing industry;
- recycling of industrial and/or household waste (except for waste disposal);
- R&D;
- activities in the IT sector and telecommunications.

At the same time, in the territory of industrial parks it is forbidden to conduct the following economic activities:

- production of excise goods, except for the production of cars and its cabs, trailers and semi-trailers, motorcycles, vehicles intended for transportation of 10 persons or more, vehicles for transportation of goods);
- issue and organization of lotteries;
- activities in the gambling market;
- mediation in employment abroad;
- industrial catch of aquatic bioresources outside the jurisdiction of Ukraine;
- production and sale of narcotic drugs, psychotropic substances and precursors;
- household waste disposal.

- 6) **Investnanny:** **The unit managing this program has four staff, who have limited E&S expertise. The Bank team could not identify any specific E&S regulations/guidelines/procedures for this program beyond the general national E&S laws/regulations.** It is expected that types on projects supported by InvestNanny would be of significant scale and complexity thus requiring an EIA (to be cleared on national or regional level) in accordance with the Law of Ukraine ‘On EIA’. The Law of Ukraine “On State Support for Investment Projects with Significant Investments in Ukraine” and accompanying legislation provides investment projects that meet the criteria established by the Law, state guarantees on stable legislation



for 15 years, on compensation for losses caused by state bodies, as well as provides such investment projects with state support of up to 30% of amount of significant investments in one of the following forms:

- exemption from corporate income tax – for 5 years from the moment of filing the application (except for projects in the sphere of extraction for further processing and/or enrichment of minerals);
- exemption from VAT payment for operations on import of new equipment and components to it (provided that the relevant goods were made not earlier than three years before the date of their import and were not used), according to the list and volume that are approved by the Cabinet of Ministers of Ukraine;
- exemption from customs duties for importing of new equipment and components to it (provided that the relevant goods were made not earlier than three years before the date of their import and were not used), according to the list and volume that are approved by the Cabinet of Ministers of Ukraine;
- construction at the expense of state, local budgets of engineering and transport infrastructure (highways, communication lines, utilities etc.) necessary for the realization of investment project with significant investments (except projects in the sphere of iron ore enrichment);
- establishment by the local self-government bodies of land tax rates and rent payments for land of state and communal property in the less amount than a land tax, as well as exemption from land tax (except for projects in the sphere of extraction for further processing and/or enrichment of minerals);
- simplified procedure for granting right for use (lease) of land plots of state or communal property with the pre-emptive right for acquisition of such a land plot to the property after the expiration of a special investment agreement;
- compensation for costs of connection to engineering and transport infrastructure (highways, communication lines, utilities, etc.);
- exemption from compensation for losses of forestry production.

Additionally, if the implementation of an investment project with significant investments requires connection to the networks of heat, gas, water and electricity supply, utilities, etc., including networks and/or communications owned by natural monopolies, the state may assist the investor with significant investments in the process of such connection within the framework of a special investment agreement (in particular, by negotiation). The incentives stipulated by law are provided for investment projects, for which a special investment agreement is concluded with the state and which meet the investment project requirements established by the law, namely:

- 12+ mln euro of investments into the project since the conclusion of the special investment agreement;
- 10+ new jobs created since the conclusion of the special investment contract with the average wage, which at least 15 percent bigger than the average wage for the respective duties in the respective region;
- project envisages construction, modernization, technical and/or technological re-equipment of investment objects;
- project implementation period shall not exceed 5 years;

Project is implemented in one of the areas provided by law:

- processing industry (except manufacturing and trade of tobacco products, ethyl alcohol, cognac and fruit alcohol, alcohol beverages);
- extraction for the purpose of further processing and/or enrichment of natural resources (except hard coal, lignite, crude petroleum, natural gas);
- waste management;
- transportation;
- warehousing;
- postal and courier activities;
- logistics;
- education;
- R&D;
- healthcare;
- arts and culture;
- sports;
- tourism;
- hospitality;
- electronic communication;
- production of biogas and biomethane (including liquefied or compressed).

30. **Export Promotion Fund (EPF) under EEPO:** The EPF is working on developing entrepreneurship and export promotion at the national level. They implement a range of activities for Micro, Small, and Medium Enterprises (MSMEs), such as: (i) International events for exporters; (ii) Exhibitions for exporters; (iii) Education and consultations for exporters and entrepreneurs; (iv) Collaborations with associations of enterprises to help businesses develop; (v) Participation in the Diia for Business Project, in partnership with the Ministry of Digital Transformation of Ukraine. Diia Business is divided into two parts: online and offline. The online platform provides enterprises with information about business ideas, financial programs, news, etc. The offline centers offer support to enterprises in various regions. Entrepreneurs can visit these centers to receive free consultations, educational programs, and other services. Diia Business is funded by various donors, not from the state budget; and (vi) Business Bridge program (exhibitions, events). The EPF funds cover all economic sectors, focusing more on potential exporters. EPF reports to the Secretariat of the Cabinet of Ministers of Ukraine. They have 45 employees, 33 of whom are financed by the state budget, and the others by donors. **There is no E&S specialist among the staff.** EPF operates through the Diia Business network. This network is based on NGOs, which receive money from donors (VISA, Mastercard, USAID, etc.) and distribute it through various programs. EPF is responsible for selecting the enterprises that will participate in the programs. The criteria for selecting enterprises are specific to each program and are established by donors and NGOs. For the Business Bridge Program, the enterprises report to EPF about their financial activity. For other programs, EPF conducts surveys that include evaluation and assessment of the enterprises' business activities. **There are no requirements for OHS.** EPF is not responsible for monitoring the OHS of enterprises. **Complaints can be submitted through the EPF website, including a channel for confidential grievances related to corruption, via email, or through NGOs (each NGO has its own channel). EPF continuously conducts one-on-one consultations with potential beneficiaries and conducts surveys after consultations to gather feedback.**

31. **Export Credit Agency (ECA):** ECA was founded in 2018. The sole founder and shareholder of ECA is the state represented by the Cabinet of Ministers of Ukraine. The corporate rights owned by the state in the authorised capital of ECA are managed by the Cabinet of Ministers of Ukraine through its authorised management body – the MoE. The main goal of the agency is to support and stimulate the large-scale expansion of exports of goods



(works, services) of Ukrainian origin. The institution protects Ukrainian exporters from the risk of non-payment and financial losses associated with the execution of foreign trade contracts and provides a wide range of services to strengthen the credit policy of Ukrainian exporters and effectively manage their financial flows. In 2023, with the support of ECA, Ukrainian exporters received over UAH 1 billion in financing. The most popular goods for sale abroad in the first quarter of 2024 were toys and play equipment, clothing and various food products supplied to foreign counterparties in Germany, the USA and India. **While no functional E&S risk management system has been identified in ECA, the proposed Program will support the development of its new strategy which will include the alignment with EU sustainability standards.**

32. **Innovation Development Fund:** The Innovation Development Fund is a state structure under the **Ministry of Digital Transformation of Ukraine**. The Innovation Fund has 50 workers. There are no E&S specialists at the Fund, but they can involve different specialists if needed. **The Innovation Fund has requirements for applicants related to E&S standards. There is a general statement that applicants should follow social and environmental standards, without specific details.** The main activity of the Innovation Fund is providing grants from the state budget and from donors. There are two types of grants:

- **Providing support to the defense cluster (main cluster):** This includes various support projects related to the defense sector at different stages. Grant recipients are developers of innovative technologies for the defense sector (e.g., drones, reconnaissance systems, communication systems, AI systems, etc.). All these innovations go through an expertise process, with the first tier being the General Staff of Ukraine (military) and the second tier being the Innovation Fund commission. If the technologies are approved by both commissions, the grant recipients can receive the grant. Financing for defense technologies comes only from the state budget. Criteria for financing defense technologies are described in the Innovation Fund regulations. **These activities will not be eligible for Program financing as falling under WBG Exclusion List.**
- **Civilian startups to support the startup ecosystem in Ukraine:** These grants are mainly financed by donors such as UNICEF and GIZ. Grants are provided for innovations to develop technologies in various areas, including promoting Ukrainian startups to an international level (conferences, exhibitions, networking, etc.). Criteria for financing civilian startups are established by donors.

33. The Innovation Fund mainly works on the operational processes such as administration, receiving applications, engagement, grant selection, arrangement of site visits, grant monitoring, preparation of reports, etc. Applicants send applications through the web portal of the Innovation Fund. The application must be approved by the Supervisory Board. Monitoring is mainly financial. **OHS and waste management are not monitored by the Innovation Fund, but this could be done according to donors' requirements.** General communication channels include phone and email. **There is also a confidential channel for reporting corruption. Information is disclosed through the website, YouTube channel, social networks, messengers, etc.**

## 5 COMPARATIVE ANALYSIS OF BORROWER E&S SYSTEM AND WORLD BANK CORE PRINCIPLES

34. Based on the key findings of the borrower’s E&S systems assessment in the previous sections, this section presents the comparative analysis organized by each of the six Core Principles outlined in Bank Policy and Directive for Program-for-Results Financing. More specifically, this section: (i) examines the relevance of each Core Principle to the proposed Program; (ii) highlights key findings from the E&S systems assessment (including legal/regulatory framework and institutional capacity) presented in the previous sections, including on the strengths and weaknesses/areas for improvement of the current system; and (iii) proposes gap-filling/mitigation measures to ensure that the Program is managed in a manner consistent with the Core Principles of the Bank’s PforR Policy. The proposed gap-filing/mitigation measures in the following table have informed the final conclusion and recommendations of the ESSA, as presented in Section 7.

### **Core Principle 1: General Principle of Environmental and Social Management**

**Bank Policy for Program-for-Results Financing:** *Environmental and social management procedures and processes are designed to (a) promote environmental and social sustainability in Program design; (b) avoid, minimize or mitigate against adverse impacts; and (c) promote informed decision-making relating to a program’s environmental and social effects.*

**Bank Directive for Program-for-Results Financing:** *Program procedures will:*

- *Operate within an adequate legal and regulatory framework to guide environmental and social impact assessments at the program level.*
- *Incorporate recognized elements of environmental and social assessment good practice, including*
  - (a) early screening of potential effects;*
  - (b) consideration of strategic, technical, and site alternatives (including the “no action” alternative);*
  - (c) explicit assessment of potential induced, cumulative, and transboundary impacts;*
  - (d) identification of measures to mitigate adverse environmental or social impacts that cannot be otherwise avoided or minimized;*
  - (e) clear articulation of institutional responsibilities and resources to support implementation of plans; and*
  - (f) responsiveness and accountability through stakeholder consultation, timely dissemination of program information, and responsive grievance redress measures.*

**Relevance to the proposed Program:** Relevant

While the client government institutions will not directly engage with physical interventions, the business activities of the SMEs supported by the Program will have potential E&S risks and impacts related to construction as well as operation and manufacturing, which will require appropriate E&S management system.

<b>Findings from E&amp;S Systems Assessment</b>	<b>Proposed Gap-filing/Mitigation Measures</b>
<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• Ukraine has formally <b>aligned its legislation with the EU’s</b> Environmental Impact Assessment (EIA) Directive and the Directive on Strategic Environmental Assessment. Also, after signing the Association Agreement with the EU, Ukraine became a signatory to environmental and sustainable development international conventions and adopted a wide range of legal acts and programs.</li> <li>• <b>The scope of Ukrainian environmental legislation is comprehensive</b> (more than 300 legal acts) and covers most areas of environmental protection and natural resources management.</li> <li>• <b>The BDF (which consists of 70% of the Program expenditure) has a robust ESMS</b> supported under WB IPF operations (ARISE).</li> </ul> <p><b>Weaknesses/Areas for improvement:</b></p> <ul style="list-style-type: none"> <li>• <b>The legislation is largely declarative in nature and does not have all the essential enforcement mechanisms</b> for implementing legal acts and international agreements, especially due to limited capacity of responsible authorities due to ongoing war. Many of the acts are not coherent with each other.</li> <li>• WB’s current and past operational experience and practical information from similar construction sites show that some of <b>the national legislation on OHS, community health and safety, waste management and resource efficiency are sometimes overlooked and/or neglected</b> – partially, due to the lack of knowledge of the workforce, due to the lack of supervision and guidance, but also to speed up the process and save the budget (for mitigation measures).</li> <li>• <b>The E&amp;S capacity of MoE</b>, the lead implementing agency, would benefit from extensive support.</li> <li>• <b>Lack of EHS guidelines for SME operations</b></li> <li>• <b>While the support programs for “Industrial Parks” and “InvestNanny” consist of only limited share of the Program expenditure, they have E&amp;S selection criteria</b>, which are subject for improvement.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Establish a program implementation unit (PIU) in MoE with appropriate E&amp;S expertise</b>, who will support the E&amp;S risk management in relevant programs under MoE, including “Investment Nanny”, “Industrial Park”, “Made in Ukraine cashback program (supporting internal demand for national products)”, “Agricultural machinery and equipment grants” and “eRobota (state grant for the development of new businesses)”.</li> <li>• <b>Assign E&amp;S focal points in other program-implementing ministries/institutions</b> (BDF, EEPO, ECA, Innovation Fund) to manage the E&amp;S risks and impacts in their programs, extend their E&amp;S capacity as needed.</li> <li>• <b>Implement capacity building program</b> for above E&amp;S staffing.</li> <li>• <b>Promote/Apply WB EHS guidelines and provide EHS training for SMEs (general and sector specific).</b></li> <li>• <b>Apply exclusion criteria</b> to exclude activities with possible significant E&amp;S risks and impact.</li> <li>• <b>Conduct E&amp;S audit</b> to identify eligible applications (for “Industrial Parks” and “InvestNanny”, such as in brown field)</li> <li>• <b>Adopt updated E&amp;S procedures and selection criteria in the regulations related to “Industrial Parks” and “Invest Nanny.”</b></li> </ul>

**Core Principle 2: Natural Habitats and Physical Cultural Resources**

<p><b>Bank Policy for Program-for-Results Financing:</b> <i>Environmental and social management procedures and processes are designed to avoid, minimize and mitigate against adverse effects on natural habitats and physical cultural resources resulting from program.</i></p>	
<p><b>Bank Directive for Program-for-Results Financing:</b> <i>As relevant, the program to be supported:</i></p> <ul style="list-style-type: none"> <li>▪ <i>Includes appropriate measures for early identification and screening of potentially important biodiversity and cultural resource areas.</i></li> <li>▪ <i>Supports and promotes the conservation, maintenance, and rehabilitation of natural habitats; avoids the significant conversion or degradation of critical natural habitats, and if avoiding the significant conversion of natural habitats is not technically feasible, includes measures to mitigate or offset impacts or program activities.</i></li> <li>▪ <i>Takes into account potential adverse effects on physical cultural property and, as warranted, provides adequate measures to avoid, minimize, or mitigate such effects.</i></li> </ul>	
<p><b>Relevance to the proposed Program:</b> Relevant</p> <ul style="list-style-type: none"> <li>• While the support of the proposed Program is limited to support to SMEs, it is likely (in particular those with civil work intervention) that the Program have adverse impacts on natural habitats and physical cultural resources.</li> </ul>	
<p><b><u>Findings from E&amp;S Systems Assessment</u></b></p> <ul style="list-style-type: none"> <li>• Covered under Core Principle 1</li> </ul>	<p><b><u>Proposed Gap-filing/Mitigation Measures</u></b></p> <ul style="list-style-type: none"> <li>• Covered under Core Principle 1</li> </ul>

**Core Principle 3: Public and Worker Safety**

**Bank Policy for Program-for-Results Financing:** *Environmental and social management procedures and processes are designed to protect public and worker safety against the potential risks associated with (a) construction and/or operations of facilities or other operational practices developed or promoted under the program; (b) exposure to toxic chemicals, hazardous wastes, and otherwise dangerous materials; and (c) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.*

- Bank Directive for Program-for-Results Financing:**
- *Promotes community, individual, and worker safety through the safe design, construction, operation, and maintenance of physical infrastructure, or in carrying out activities that may be dependent on such infrastructure with safety measures, inspections, or remedial works incorporated as needed.*
  - *Promotes use of recognized good practice in the production, management, storage, transport, and disposal of hazardous materials generated through program construction or operations; and promotes use of integrated pest management practices to manage or reduce pests or disease vectors; and provides training for workers involved in the production, procurement, storage, transport, use, and disposal of hazardous chemicals in accordance with international guidelines and conventions.*
  - *Includes measures to avoid, minimize, or mitigate community, individual, and worker risks when program activities are located within areas prone to natural hazards such as floods, hurricanes, earthquakes, or other severe weather or climate events.*

**Relevance to the proposed Program:** Relevant  
 The workers in SMEs and community members may be exposed to occupational and community hazards when in localized construction and business operations/manufacturing.

<u>Findings from E&amp;S Systems Assessment</u>	<u>Proposed Gap-filing/Mitigation Measures</u>
<p><b><u>Strengths:</u></b></p> <ul style="list-style-type: none"> <li>• Ukrainian legislation on labor protection consists of the Law of Ukraine “On Labour Protection” and many bylaws. <b>Efforts are underway to improve the compliance of Ukraine’s OHS legal framework with key international and European standards on OHS and labor relations.</b></li> </ul> <p><b><u>Weaknesses/Areas for improvement:</u></b></p> <ul style="list-style-type: none"> <li>• <b>The high incidence rates of work-related accidents and occupational diseases</b> indicate that a lot still remains to be done, when it comes to the prevention of occupational risks and the promotion of the safety, health and well-being of workers.</li> <li>• <b>These gaps and shortcomings are further exacerbated by the ongoing conflict situation.</b> Accidents with fatal consequences caused by hostilities constitute almost half of the total fatal injuries at work in the conditions of conflict.</li> <li>• Lack of support by MoE to <b>SME’s EHS.</b></li> <li>• Inadequate attention to <b>GBV and SEA/SH</b> risks.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Adopt/Promote WB EHSG in relevant industry sector and training program,</b> which would help reduce the number of incidents/accidents.</li> <li>• <b>Conduct monitoring of EHS measures in SMEs and regular and incident reporting on EHS by MoE</b></li> <li>• <b>Apply/Promote GBV and SEA/SH risk mitigations for SMEs</b></li> </ul>

**Core Principle 4: Land Acquisition**

<p><b>Bank Policy for Program-for-Results Financing:</b> <i>Land acquisition and loss of access to natural resources are managed in a way that avoids or minimizes displacement, and affected people are assisted in improving, or at least restoring, their livelihoods and living standards.</i></p>	
<p><b>Bank Directive for Program-for-Results Financing:</b> <i>As relevant, the program to be supported:</i></p> <ul style="list-style-type: none"> <li>▪ <i>Avoids or minimizes land acquisition and related adverse impacts;</i></li> <li>▪ <i>Identifies and addresses economic and social impacts caused by land acquisition or loss of access to natural resources, including those affecting people who may lack full legal rights to assets or resources they use or occupy;</i></li> <li>▪ <i>Provides compensation sufficient to purchase replacement assets of equivalent value and to meet any necessary transitional expenses, paid prior to taking of land or restricting access;</i></li> <li>▪ <i>Provides supplemental livelihood improvement or restoration measures if taking of land causes loss of income-generating opportunity (e.g., loss of crop production or employment); and</i></li> <li>▪ <i>Restores or replaces public infrastructure and community services that may be adversely affected.</i></li> </ul>	
<p><b>Relevance to the proposed Program:</b> Relevant</p> <ul style="list-style-type: none"> <li>• While the client government institutions will not directly engage with physical interventions, the proposed Program will not envisage any compulsory land acquisition and involuntary physical and economic displacement caused by the client government institutions. However, some local government may offer land to private sector operators for business promotion. There is also a risk of involuntary economic or physical displacement.</li> </ul>	
<p><b>Findings from E&amp;S Systems Assessment</b></p> <p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• While <b>the client government institutions will not directly engage with physical interventions</b>, the proposed Program will not envisage any compulsory land acquisition and involuntary physical and economic displacement caused by the client government institutions.</li> </ul> <p><b>Weaknesses/Areas for improvement:</b></p> <ul style="list-style-type: none"> <li>• In Ukraine, the right to dispose of land and other property are based on registration of ownership. <b>There are important gaps between the national regulations and WB standards under Core Principles 4</b> (such as support to informal users and livelihood restoration).</li> <li>• <b>Some programs to be supported by this PforR could have significant land-related impacts</b>, which scale and magnitude are unknown at program preparation stage.</li> </ul>	<p><b>Proposed Gap-filing/Mitigation Measures</b></p> <ul style="list-style-type: none"> <li>• <b>Include an exclusion criterion</b> that the program will not support significant compulsory land acquisition, involuntary physical and economic displacement, including informal users.</li> </ul>

**Core Principle 5: Indigenous Peoples and Vulnerable Groups**

<p><b>Bank Policy for Program-for-Results Financing:</b> <i>Due consideration is given to cultural appropriateness of, and equitable access to, program benefits giving special attention to rights and interests of Indigenous Peoples and to the needs or concerns of vulnerable groups.</i></p>	
<p><b>Bank Directive for Program-for-Results Financing:</b></p> <ul style="list-style-type: none"> <li>• Undertakes free, prior, and informed consultations if Indigenous Peoples are potentially affected (positively or negatively) to determine whether there is broad community support for the program.</li> <li>• Ensures that Indigenous Peoples can participate in devising opportunities to benefit from exploitation of customary resources or indigenous knowledge, the latter (indigenous knowledge) to include the consent of the Indigenous Peoples.</li> <li>• Gives attention to groups vulnerable to hardship or disadvantage, including as relevant the poor, the disabled, women and children, the elderly, or marginalized ethnic groups. If necessary, special measures are taken to promote equitable access to program benefits.</li> </ul>	
<p><b>Relevance to the proposed Program:</b> Relevant                  Inclusion of vulnerable groups (such as female stakeholders, persons with disabilities, persons in remote areas) in program benefit and stakeholder engagement processes is relevant for the proposed Program. No Indigenous Peoples are present in Ukraine who meet the criteria of the World Bank Policy.</p>	
<p><b>Findings from E&amp;S Systems Assessment</b></p> <p><u>Strengths</u></p> <ul style="list-style-type: none"> <li>• <b>Ukrainian regulatory framework contains a wide range of policies and legislation at various administrative levels pertaining to gender and social inclusion, and relevant to inclusive access of program benefits for vulnerable groups.</b> The 2013 Law on Principles of Prevention and Combating Discrimination in Ukraine endorses a general definition of discrimination, promoting the rights and freedoms of individuals discriminated against on the basis of sex, among other characteristics.</li> <li>• <b>In July 2021, the Ukrainian Parliament adopted a Law on Indigenous Peoples.</b> While no Indigenous People are present in Ukraine who meet the criteria of the World Bank Policy, the Law provides a framework for the protection of the rights of certain vulnerable minorities in the Crimean Peninsula (outside the scope of the Program), namely Crimean Tatars, Karaites and Krymchaks. This Law protects the cultural, educational, linguistic and informational rights of such people.</li> </ul> <p><u>Weaknesses/Areas for improvement:</u></p> <ul style="list-style-type: none"> <li>• While no particular risk of exclusion has been identified through consultations with key stakeholders, there is potential that <b>vulnerable groups might be excluded from Program benefits</b> due to a variety of reasons (such as gender, remoteness, disabilities, digital literacy).</li> </ul>	<p><b>Proposed Gap-filing/Mitigation Measures</b></p> <ul style="list-style-type: none"> <li>• <b>Conduct the stakeholder engagement program in an inclusive manner</b> through involvement of representatives of vulnerable groups.</li> </ul>



**Core Principle 6: Social Conflict**

<b>Bank Policy for Program-for-Results Financing:</b> <i>Avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.</i>	
<b>Bank Directive for Program-for-Results Financing:</b> <i>Considers conflict risks, including distributional equity and cultural sensitivities.</i>	
<b>Relevance to the proposed Program:</b> Relevant Timely and satisfactory management of grievances and social conflicts/tensions is key for the success of the proposed Program.	
<p><b>Findings from E&amp;S Systems Assessment</b></p> <p><b>Strengths</b></p> <ul style="list-style-type: none"> <li>• There are a number of national policies and regulations that cross cutting systems for stakeholder engagement and information disclosure across all the program activities.</li> <li>• The Law of Ukraine "On Citizen Appeals" provides the right to file observations, complaints and proposals with the government authorities, local governments, citizens associations, enterprises, institutions, organizations. The Law on Citizens Appeals and the Law "On Access to Public Information," guarantees the citizens' right to address government bodies and define the duties and timelines for handling such appeals by government bodies.</li> </ul> <p><b>Weaknesses/Areas for improvement:</b></p> <ul style="list-style-type: none"> <li>• Ukrainian legislation, relative to international good practice, is <b>absent the possibility of anonymous grievances</b>. Section 8 of the Law "On Citizens' Appeals" directly specifies that anonymous appeals are not considered.</li> <li>• <b>While BDF, EEPO, ECA and Innovation Development Fund have their own grievance system, their functionality could be reviewed and strengthened.</b></li> <li>• <b>No E&amp;S system to address safety risks related to war hazards is available</b> (such as ERW and aerial strikes), which could affect business activities of SMEs.</li> <li>• Some SME support programs are provided to defence sectors.</li> </ul>	<p><b>Proposed Gap-filing/Mitigation Measures</b></p> <ul style="list-style-type: none"> <li>• <b>Strengthen functional grievance mechanism (at the MoE level) and improve existing grievance mechanism (BDF, EEPO, ECA, Innovation Development Fund).</b></li> <li>• <b>Apply Emergency Preparedness and Response Plan (EPRP) where relevant</b> (sample attached in Annex 3)</li> <li>• <b>Exclude defence sectors from program support.</b></li> </ul>



## 6 STAKEHOLDER ENGAGEMENT

35. **Consultation Event for Preparing ESSA (May-June, 2024):** For the preparation of this ESSA, the E&S specialists of the Bank task team undertook a series of meetings with different stakeholders, including the following. The consultation meetings were organized online in May 22-28 with relevant government institutions and with the CSO group on June 28, 2024. No site visits were conducted due to the security concerns in the country. The outcomes of the consultations have informed the ESSA, including the assessment of the regulatory and framework, the institutional capacity and community engagement program (the list of persons met is provided in Annex 1).

- 1) Industrial Park Unit, MoE
- 2) Investnanny Program Unit, MoE
- 3) State Grants for the Development of New Businesses Unit, MoE
- 4) Supporting internal demand for national products Unit, MoE
- 5) Partial compensation of the value of agricultural equipment Unit, MoE
- 6) Business Development Fund (BDF), MoE
- 7) Export Promotion Fund (EPF), Entrepreneurship and Export Promotion Office (EEPO) of Ukraine
- 8) Innovation Development Fund, Ministry of Digital Transformation, Ukraine
- 9) CSO Group “RISE Ukraine” (CEE Bankwatch Network, WWF Ukraine, Kyiv National University)

36. **Consultation Event for Finalizing ESSA (July 24, 2024):** Stakeholder consultations on the draft ESSA were held in two virtual sessions on July 24, 2024, with about 52 participants in attendance. The **first session** included government representatives of all programs to be implemented under the RISE Project. The **second session** was attended by representatives of NGOs and private sector. Prior to the meetings, the World Bank task team provided the stakeholders with the Executive Summary in the local language. Each meeting's structure included a discussion on key issues in the draft ESSA.

37. Stakeholder feedback generally aligned with the analysis of the legal framework, and participants in discussions during the preparation process felt that their perspectives were considered in the draft document. Stakeholders concurred that the conclusions and priority areas highlighted in the plan were appropriate. They particularly emphasized the importance of mechanisms for involving private sector and NGOs in capacity building, project monitoring and addressing implementation challenges, given the existing gaps in effective environmental inspections. Key concerns regarding the Program Action Plan (PAP) focused on applying the exclusion list too rigidly to certain government programs, implementing environmental controls and ensuring compliance with World Bank guidelines. Despite these concerns, stakeholders broadly supported the overall framework and proposed actions outlined in the draft plan. The summarized questions and answers during consultations are presented below.

### Session One with Government counterparts:

Questions Raised	Bank Staff Responses
What will be the procedure for screening eligible projects in 2024?	The projects must comply with the World Bank's exclusion list. Projects deemed significant risk cannot be financed under the Program for Results (P4R). Eligible projects should have E&S

	instruments as required by both World Bank standards and Ukrainian legislation.
How will <b>the assessment guidelines be implemented in the decision-making process</b> for funding projects with investors and industrial parks, especially if these guidelines are not integrated into existing Ukrainian legislation?	The World Bank's guidelines will be integrated into the legal framework through loan agreements signed by the Ukrainian government. These agreements will include requirements for adherence to E&S principles.
<b>Where is the requirement for E&amp;S assessment provided in Ukrainian law</b> , and how should projects comply if it is not explicitly mentioned?	There is a gap between Ukrainian law and World Bank requirements. The World Bank's standards require a more comprehensive approach that includes social assessments.
Is it possible to <b>obtain waivers for the World Bank's exclusion list</b> for projects related to the defense and energy sectors, given the current situation in Ukraine?	This is a matter for the World Bank senior management and Board Directors at a higher level. At the staff level, the exclusion list cannot be waived and applies to all projects.
Why are <b>industrial parks</b> categorized as high-risk projects?	Industrial parks are categorized as significant risk because they have potentially significant E&S impact, including large scale land acquisition. Also, they lack an established E&S Management System (ESMS). Unlike the BDF, which has an ESMS in place, the industrial parks and investor programs currently lack such systems.
How can we <b>practically implement E&amp;S policies for industrial parks</b> and investor projects to ensure compliance with World Bank standards?	As soon as projects become available, the Bank will support the client in reviewing them and suggesting necessary modifications to ensure compliance with World Bank policies. More details are provided in the PAP.

**Session Two with NGOs and private sector:**

<b>Issues raised</b>	<b>Bank staff responses</b>
What instruments will be used to <b>involve the non-governmental sector in monitoring</b> these projects and addressing any issues that may arise?	There is legislation in Ukraine regarding this matter. The stakeholder engagement plan will be also prepared. The plan should be published, and everyone will have an opportunity to submit proposals, comments and complaints through the feedback mechanism. The social specialist at the Ministry of Economy and each implementing agencies will be responsible for receiving and addressing feedback from NGOs.
There was a strong emphasis on how <b>Ukrainian legislation</b> formally meets many requirements, but how will implementation and control be ensured, especially in light of	While the environmental inspectorate may not be functioning effectively, there are mechanisms in place described in E&S impact assessments. However, Ukraine's recovery process presents unique challenges. It is crucial to synergize between

<p>ineffective environmental inspections?</p>	<p>state authorities and the public sector to address any emerging issues.</p>
<p>What role will <b>business associations</b> play in collaborating with the Ministry of Economy, particularly in harmonizing standards, and can standards be adopted without translation to Ukrainian?</p>	<p>Business associations, including those part of the Ukrainian Business Council, are ready to provide expert assistance. As for standards, adopting them without translation can speed up implementation. Currently, only three groups of standards are prioritized, but there are 27 groups of standards under Ukraine’s EU Association Agreement, which priorities need to be expanded. The Ministry of Economy will take these suggestions into account for future planning.</p>
<p>What is the World Bank's approach to preventing <b>sexual violence and harassment</b> in its projects, and what guidelines will the Ministry of Economy follow to address this?</p>	<p>The World Bank has already provided guidance in establishing procedures for preventing sexual harassment and violence in its different projects. These guidelines are available online. The program will provide relevant trainings. Additionally, in terms of emergency response, the Ministry of Economy will need to develop and disseminate guidelines on how to prevent and respond to emergencies, including setting up shelters and responding to air raids.</p>

**38. Document Dissemination and Public Disclosure:** The draft ESSA was translated into Ukrainian and shared with the stakeholders and publicly disclosed before the public consultation. The final report will be disclosed publicly in-country and at the World Bank’s website before the board approval.

## 7 CONCLUSION AND RECOMMENDATIONS

39. Based on the above assessment, a series of measures and actions are recommended for the proposed Program to address the identified gaps between the government E&S management system and the core principles of the Bank’s PforR Policy. These would ensure that the proposed program be managed in a manner consistent with the Core Principles. Subject to adjustment through negotiations with the client, these recommendations shall be integrated in (i) excluded activities; (ii) relevant DLIs/verification protocol or (iii) the Program Action Plans (PAPs), as specified below (some key actions are intentionally overlapping for better follow-through). They will be also embedded in the POM for operationalization, as appropriate. Their effectiveness will continue to be monitored and adjusted throughout the program life:

### **(i) Excluded Activities:**

40. The Program will exclude activities that do not meet the World Bank’s Policy and the ESSA Guidance (September 2020) on eligibility for PforR financing. The borrower shall ensure that the Program excludes any activities which, in the opinion of the World Bank, are likely to have significant adverse impacts that are sensitive, diverse or unprecedented on the environment and/or affected people. More specifically, the RISE PforR will not support investments with potentially significant environmental and social risks and impacts, which will be excluded from financing under the Program. The program will exclude large-scale construction and rehabilitation work. This Program will not support large-scale land acquisition and involuntary economic and physical resettlements. The Program will not accommodate activities that involve the significant conversion or degradation of critical natural habitats or critical physical cultural heritage. The program will exclude support to activities for military purposes/clusters. An exclusion list will be also included in the POM. The general list of excluded activities with sectoral examples are depicted in Table below.

<b>The proposed PforR financing should not be used to support programs, or activities within the proposed Programs, that in the Bank’s opinion involve the following:</b>
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| <ul style="list-style-type: none"><li>• <i>Any support for military purposes/clusters</i></li><li>• <i>Significant conversion or degradation of critical natural habitats or critical cultural heritage sites;</i></li><li>• <i>Air, water, or soil contamination leading to significant adverse impacts on the health or safety of individuals, communities, or ecosystems;</i></li><li>• <i>Workplace conditions that expose workers to significant risks to health and personal safety;</i></li><li>• <i>Land acquisition and/or resettlement of a scale or nature that will have significant adverse impacts on affected people, or the use of forced evictions;</i></li><li>• <i>Large-scale changes in land use or access to land and/or natural resources;</i></li><li>• <i>Adverse E&amp;S impacts covering large geographical areas, including transboundary impacts, or global impacts such as greenhouse gas (GHG) emissions;</i></li><li>• <i>Significant cumulative, induced, or indirect impacts;</i></li><li>• <i>Activities that involve the use of forced or child labor;</i></li><li>• <i>Marginalization of, discrimination against, or conflict within or among, social (including ethnic and racial) groups; or</i></li><li>• <i>Activities that would (a) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation; (b) cause relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from land and natural resources that are subject to traditional ownership or under customary use or occupation; or (c) have</i></li></ul> |
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*significant impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities’ cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected communities.*

**The list below provides examples of activities that are excluded from the proposed PforR financing: new or significant expansion of the following:**

- *Power plants;*
- *Major transport infrastructure—for example, new highways, expressways, urban metro systems, railways, and ports;*
- *Operations in mining and extractive industries;*
- *Commercial logging or large-scale forest-products-processing operations;*
- *Large-scale water (surface and groundwater) resource infrastructure, including large dams, or activities involving the allocation or conveyance of water, including inter-basin water transfers or activities resulting in significant changes to water quality or availability; or*
- *Manufacturing or industrial processing facilities.*

**(ii) DLIs and verification protocol which address E&S issues**

41. While the BDF consists of the majority of the Program expenditure, its E&S capacity and coverage will be expanded and strengthened through the following DLIs and verification protocols. The effectiveness of the BDF’s ESMS will be also monitored and supported through the implementation of the relevant PAP indicated below (including capacity building program, monitoring and reporting).

Enhancing compliance of SME financing programs with ESG requirements	
Formula	DLR 2.1: Total allocation is disbursed when achievement is verified. DLR 2.2: US\$1 mln for every 1 percent of the overall 5-7-9 lending volume consisting of banks that adopted the Environmental and Social Safeguards Management Systems up to the total allocation DLR 2.3: US\$1.5 mln for every 0.5 percent increase of overall SMEs financed under the 5-7-9 program in compliance with ESG requirements up to the total allocation.
Description	DLR 2.1: BDF’s Supervisory Board adopted its Environmental and Social Policy. The E&S policy establishes the fundamental principles and commitments of the BDF and PFIs towards sustainable and responsible investment practices in alignment with environmental, social, and occupational and community health & safety requirements. The policy is applicable once adopted by the Board and relates to BDF’s overall crediting activities. DLR 2.2: At least 20 banks accounting for 90 percent of the overall 5-7-9 lending volume adopted Environmental and Social Management Systems by their respective Supervisory Boards resulting in mandatory application. ESMS provide for clear environmental and social policy statement, effective procedures and adequate capacity for assessing, managing, and monitoring risks and impacts of subprojects, as well as managing overall portfolio risks in a responsible manner. Before the respective bank adopts the ESMS it will be cleared by the BDF. DLR 2.3: 30 percent increase of number of SMEs financed under the 5-7-9 program in compliance with ESG requirements. The application of the ESMS will be included as a legally binding provision in the loan agreement between the banks and SMEs.
Data source/ Agency	DLR 2.1, DLR 2. 2 and DLR 2.3: BDF
Verification Entity	DLR 2.1: review of documentary evidence DLRs 2.2 and 2.3: IVA
Procedure	DLR 2.1: The World Bank will be provided with: (i) the formal decision of the Supervisory Board and (ii) supporting evidence being the adopted Environmental and Social Policy

	<p>DLR 2.2: The World Bank will be provided with: (i) the formal decision of the Supervisory Board of the respective participating bank, (ii) the adopted Environmental and Social Management System as supporting evidence and (iii) evidence on the share in the overall 5-7-9 lending volume of that respective participating bank.</p> <p>DLR 2.3: The IVA will be provided with a consolidated report on compliance of SMEs participating in the 5-7-9 program with ESG requirements including a sample review of loan agreements.</p>
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**(iii) Program Action Plan (PAP):**

42. Based on the assessment and to strengthen the existing system and processes, the following actions will be included as part of Program Action Plans along with key due dates, responsibilities and indicators for its completion measurement. While the following PAP items are applicable to all implementing agencies, a specific PAP item (the E&S audit) is included (in Item 7 in the table below) to exclude potentially significant E&S risks and impacts in “Industrial Parks” and “InvestNanny” under MoE and identify subprojects that can be supported by this PforR. While the proposed Program will support existing government programs, the EHS capacity enhancement for SMEs (in Item 3) will be implemented in an incremental/developmental manner through the proposed PforR and the IPF TA.

Action Description	Due Date	Responsible Party	Completion Measurement
<p><b>1. E&amp;S Staffing arrangement for the Program:</b></p> <p>(i) Engagement of qualified Environmental and Social Specialists in the PIU in MoE (who will support “Investment Nanny”, “Industrial Park”, “Made in Ukraine cashback program (supporting internal demand for national products)”, “Agricultural machinery and equipment grants” and “eRobota (state grant for the development of new businesses)”);</p> <p>(ii) Assignment of an E&amp;S focal point in all other implementing institutions (BDF, EEPO, ECA and Innovation Fund) (who can be existing or new personnel);</p> <p>(iii) Setting up effective communication and coordination mechanism among them; and</p> <p>(iv) Implementation of capacity building program for the E&amp;S staff and focal points</p>	<p>Within two months of Program Effectiveness for (i), (ii) and (iii)</p> <p>Throughout the life of the Program for (iv)</p>	<p>MoE/PIU, BDF, EEPO, ECA Innovation Fund</p>	<ul style="list-style-type: none"> <li>• Inclusion of the listed specialists in the team (WB clears ToRs).</li> <li>• Staff/focal points maintained throughout the Program implementation.</li> <li>• Training module and implementation reported to the Bank</li> </ul>
<p><b>2. Preparation and implementation of Program Operational Manual (POM) with comprehensive E&amp;S Exclusion List (as presented in the table above) and E&amp;S PAP actions (as presented in this table).</b></p>	<p>POM completion as part of dated Covenants (as defined in financing agreement)</p>		<ul style="list-style-type: none"> <li>• POM completed and disseminated to stakeholders.</li> <li>• Associated</li> </ul>

Action Description	Due Date	Responsible Party	Completion Measurement
	Implementation throughout the life of the Program		training provided. • E&S guidelines operationalized to all Program activities.
<b>3. EHS Capacity enhancement for SMEs:</b> MOE and other implementing institutions to integrate the following in the SME support programming (The <b>IPF component</b> will also support their capacity enhancement in ESG agenda, as per EU standards): (i) WBG general and sector specific <b>EHSGs</b> and roll-out training programs for SMEs; (ii) Emergency Preparedness and Response Plan ( <b>EPRP</b> ) (sample Annex 3) (iii) <b>GBV and SEA/SH</b> risk mitigations.	Adoption/inclusion as part of POM  Implementation and training throughout the life of the Program		Roll-out of EHS guidelines and training programs for SMEs.
<b>4. Inclusive community engagement program:</b> Inclusive community engagement program operationalized by MOE. Vulnerable groups (such as female stakeholders, representatives of persons with disabilities, remote areas) are to be involved in program design and implementation (consultations, monitoring and grievance redress, etc.) (the IPF component will also support this task)	Adoption/inclusion as part of POM  Implementation throughout the life of the Program		Inclusive community engagement program operationalized
<b>5. Semi-annual regular reporting on E&amp;S aspects and incident reporting</b> (i) PIU E&S specialist and focal points in other institutions conduct <b>regular site visits</b> and check stakeholder feedback (ii) Sem-annual for <b>regular reporting</b> ; (iii) Within 48 hours for <b>incident reporting</b> in serious incidents occurred under the program	Ongoing		Completed report with recommendations on key EHS issues and functionality of GM.
<b>6. Improvement of functional grievance mechanism (GM)</b>	Adoption as part of POM GM operational		Grievance cases that occurred under the



Action Description	Due Date	Responsible Party	Completion Measurement
	throughout the life of the Program		program reported in the semi-annual meeting.
<p><b>7. E&amp;S Audit for support to “InvestNanny” and “Industrial Parks”</b></p> <p>(i) <b>Application of the exclusion list</b> (as presented in the table above)</p> <p>(ii) <b>Screening</b> that the facilities are renovation/rehabilitation of existing facilities (namely brown field) and <b>excluding</b> new or significant expansion of existing facilities (green field)</p> <p>(iii) <b>Preparation of TORs to conduct E&amp;S audit</b> (for completed facilities to confirm that no significant pending E&amp;S issues exist, such as resettlement, loss of biodiversity, pending OHS issues, opposition from the community) or TORs to conduct E&amp;S assessment (for new facilities to be developed)</p> <p>(iv) <b>Conduct of the E&amp;S audit</b> or E&amp;S assessment to determine eligible facilities.</p>	Prior to financial support to the relevant facilities by MOE	MoE/PIU to submit the TORs and E&S audit/assessment report to WB task team’s review and approval	Completed E&S audit or E&S assessment reported.
<p><b>8. Hiring the E&amp;S expert in the IVA to conduct regular monitoring of progress on E&amp;S risk management</b>, particularly regarding the compliance of the Program activities with the POM (on E&amp;S sections).</p>	<p>Before the disbursement to “InvestNanny” and “Industrial parks” AND two months after effectiveness</p> <p>Regular reporting during program implementation as specified in the POM</p>	MoE/PIU and IVA	<p>IVA hired with Bank-accepted contract/ TORs</p> <p>Submit regular reports to the Bank including progress of implementation of E&amp;S actions &amp; compliance with the POM (on E&amp;S sections).</p>



**Annex 1. List of stakeholders met to prepare and finalize the ESSA (May 22-28, June 28 and July 24, 2024)**

Name	Title and Organization
<b>Stakeholder Meetings on May 22-28</b>	
Olga Slavina	MOE, Adviser on International Cooperation and Assistance to the MOE
Andrii Strashnyi	MOE, Head of the Financial Policy Department
Anton Andrienko	MOE, Head of the Industrial Parks Department
Olena Ryabtseva	MOE, Head of the International Investment Cooperation Department of the Investment Promotion Department
Daryna Honcharenko	MOE, Deputy Director of the Department of the Real Sector of the Economy
Iryna Malezhyk	MOE, Head of the Department for the Development of Markets with High Added Value of the Department of the Real Sector of the Economy
Roman Kropyvnytskyi	MOE, Director of the Department of the Real Sector of the Economy
Andriy Gapon	Business Development Fund, Chairman of the Board
Andrii Remizov	Entrepreneurship and Export Promotion Office, Director
Yurii Drachuk	Ukrainian Startup Fund, Head of Projects and Programmes (in charge of the Fund’s monitoring activities)
<b>Stakeholder Meeting on June 28</b>	
Mariia Lukyanova	Ukraine National Coordinator, CEE Bankwatch Network
Vladlena Martynkevych	Ukraine reconstruction officer, CEE Bankwatch Network
Ivan Shvets	Institute of International Relations, Kyiv National University
Yaroslav Teleshun	Senior Policy Expert, WWF Ukraine

Name	Title and Organization
<b>ESSA Consultations on July 24, 2024 with Government counterparts</b>	
Alberto Criscuolo	WB, Senior Economist
Johanna Jaeger	WB, Senior Financial Sector Specialist
Aki Tsuda	WB, Senior Social Development Specialist
Amos Abu	WB, Senior Natural Resources Management Specialist
Oksana Rakovych	WB, Senior Environmental Specialist
Yevhen Hrebenuk	WB, Senior Financial Sector Specialist
Anastasiia Zakharova	WB, Consultant
Nataliia Khilobochenko	WB, Consultant
Victorlia Marchenko	ECA, Head of International Cooperation Unit
Oksana Ocheretyana	ECA, Deputy Chairman of the Management Board
Andriy Hapon	BDF, Chairman of the Board
Olena Redka	BDF, Risk Manager
Olha Mordiuk	BDF, E&S specialist
Andriy Remizov	Entrepreneurship and Export Promotion Office, Director
Volodymyr Kuzyo	MOE, Deputy Minister of Economy of Ukraine
Vyacheslav Ovechkin	MOE, Director of the Department of Investments, Innovations and Intellectual Property
Olga Slavina	MOE, Adviser on International Cooperation and Assistance to the MOE
Anton Andriienko	MOE, Head of the Industrial Parks Department
Olena Ryabtseva	MOE, Head of the International Investment Cooperation Division of the Investment Promotion Department
Yuliia Tymofieieva	MOE, Chief Specialist of the Cooperation with the International Financial Organizations Division of the Department for Investment Attraction and Cooperation with International Organizations
Viktor Halasiuk	MOE, Supervisor of the Office for the Development of Industrial Parks
Kyryl Goncharenko	MOE, Office for the Development of Industrial Parks, Senior Expert in Innovation Infrastructure in Industrial Parks
Ihor Guzhva	MOE, Office for the Development of Industrial Parks, Senior Consultant on Economic Policy and Regional Economic Development, Office for the Development of Industrial Parks
Dmytro Vasylyna	MOF, Director, Financial Policy Department
Svitlana Levchuk	MOF, Chief Specialist of Department of Interment Financial Projects
Larysa Bunyak	MOF, Chief Specialist of Department of Interment Financial Projects
Andriy Gurmanchuk	MOF, Head of Department, Financial Policy Department
Oleksandra Stepanenko	EEPO, Deputy Director for Entrepreneurship

Name	Title and Organization
<b>ESSA Consultations on July 24, 2024 with NGOs and private sector</b>	
Alberto Criscuolo	WB, Senior Economist
Johanna Jaeger	WB, Senior Financial Sector Specialist
Aki Tsuda	WB, Senior Social Development Specialist
Amos Abu	WB, Senior Natural Resources Management Specialist
Oksana Rakovych	WB, Senior Environmental Specialist
Yevhen Hrebeniuk	WB, Senior Financial Sector Specialist
Viktor Zablotskyi	WB, External Affairs Officer
Dmytro Derkach	WB, Consultant
Anastasiia Zakharova	WB, Consultant
Nataliia Khilobochenko	WB, Consultant
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Anna Shevchuk	Association of Ukrainian vending and coffee service operators
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Lina Smovziuk	PU "Kharkiv IT Cluster"
Peter Basche	Helvetas Ukraine, Director
Rodion Rybchynskyi	Head of Union Millers of Ukraine
Viktoriiia Bespalova	All-Ukrainian NGO «Taxpayers Association of Ukraine»
Yury Peroganych	The Association of Information Technology Enterprises of Ukraine
Fedir Dzen	PU "Digital transport transparency"

## **Annex 2: Relevant E&S legal and regulatory framework in Ukraine**

### **Management of E&S risks and Impacts (Core Principle 1)**

*(Excerpt of the E&S Management Framework (ESMF) prepared for REPOWER)*

Ukrainian legislative and regulatory framework environmental, social, labor, occupational health and safety (OHS) issues is quite broad and complex and includes international conventions, protocols and agreements ratified by the Verkhovna Rada of Ukraine, laws, decrees and orders of the Cabinet of Ministers of Ukraine (CMU), orders of ministries, various norms, procedures, standards and guidelines.

Environmental aspects are also regulated by relevant legal provisions contained in other parts of the country's legislation (civil law, water code, land code, administrative law, criminal law, etc.). These provisions define the nature and limits of penalties and disciplinary rules, administrative, material and criminal liability applicable to the offender of environmental legislation and standards depending on the damage caused by the environmental risk and the scale of the negative impact.

Below is a list of key laws regulating environmental and social aspects of the Project for consideration:

- The Law of Ukraine on “Environmental Protection” (1991 and periodically updated; last update 2019). The purpose of environmental legislation is to regulate relations in the sphere of protection, use and creation on natural resources, ensuring ecological safety, prevention of the negative environmental impact of economic and other activities and liquidation of its consequences, conservation of natural resources, genetic stock of animate nature, landscape and other ecosystems, unique areas and natural objects related to cultural heritage.
- Law of Ukraine No. 2320-IX on “Waste Management” (2022/entered into force on July 9, 2023). This Law defines the legal, organizational, and economic principles of activities related to the prevention of formation, reduction of the volume of waste generation, reduction of negative consequences from waste management activities, promotion of preparation of waste for reuse, recycling and recovery in order to prevent negative impact thereof on human health and surrounding natural environment. This Law regulates relations regarding prevention of generation and management of waste generated in Ukraine, as well as management of waste transported through the territory of Ukraine, exported outside its border and imported into Ukraine for the purpose of recovery, including recycling.
- On November 8, 2017, the Cabinet of Ministers of Ukraine approved the Ukrainian “National Waste Management Strategy until 2030”. The strategy identifies the main directions of state regulation in the field of waste management for the coming decades, taking into account the European approaches to waste management set out in the EU Directives. The main objectives of state policy in the field of waste prevention and management are: (a) protection of human health and the natural environment from the negative impact of waste; (b) implementing measures in the field of waste management without endangering people's health and causing damage to the surrounding natural environment within the limits of the established standards of harmful effects of physical factors; (c) compliance with the hierarchy of waste management; and (d) introduction of extended producer responsibility.
- Law of Ukraine on “Environmental Impact Assessment” (2017). The Law establishes general provisions on environmental impact assessment. It should be noted that this law applies only to those activities that require an environmental impact assessment (EIA) in accordance with parts two and three of Article 3 of the said law.
- The Law of Ukraine on Protection of the population and territories from emergencies of man-caused and natural character" (2000) defines organizational and legal bases of protection of citizens of Ukraine, foreigners and stateless persons staying on the territory of Ukraine, protection of industrial, social facilities and environment from man-made and natural character emergencies.

- The Law of Ukraine on “Atmospheric Air Protection” (1992). This Law is aimed at preserving and restoring the natural state of the atmosphere, creating favorable conditions for life, ensuring environmental safety and preventing the harmful effects of the atmosphere on human health and the environment.
- “Water Code” of Ukraine (1995). The Water Code, in combination with measures of organizational, legal, economic and educational impact, contributes to the formation of water and environmental law and environmental safety of the population of Ukraine, as well as more efficient, scientifically sound use of water and its protection from pollution, clogging and depletion.
- Law of Ukraine on “The Basics of Urban Development” (1992). The Law defines various legal, economic, social and organizational provisions for urban development activities aimed at forming a full-fledged living environment while ensuring the protection of the natural environment, rational use of nature and preservation of cultural heritage.
- Law of Ukraine on “Regulation of Urban Development Activities” (2011). Since the adoption of this Law, numerous regulatory acts defining the requirements for the construction industry have been amended. This Law establishes the legal and organizational framework for urban development and aims at ensuring the sustainable development of territories, taking into account state, public and private interests.
- Law of Ukraine on “Protection of Cultural Heritage” (2000). This Law regulates legal, organizational, social and economic relations in the field of protection of cultural heritage for the purpose of preservation, use of cultural heritage objects in public life, protection of the traditional nature of the environment for present and future generations.

The list of current regulatory legal acts on environmental protection was updated by the adoption on December 30, 2021, of the new DBN A.2.2-1:2021: Composition and content of environmental impact assessment materials, which entered into force on September 1, 2022. These standards set the requirements for the composition and content of the environmental impact assessment section of the design documentation for new construction, reconstruction and major repairs of buildings and structures of any purpose and their complexes. Also, these standards are applied to the design decisions taken, taking into account the justification of economic, technical, organizational, sanitary and other measures, aimed at ensuring environmental safety during the construction and operation of buildings and structures of any purpose and their complexes.

Since the expected environmental impacts associated with the of the Project-related civil works (for rehabilitation/installation of infrastructure/equipment) are rather limited, this document presents only a brief description of the regulatory legal acts that are important for the Project activities.

- Law No. 2509-IV on “Combined thermal and electric energy production (co-generation) and utilization of the combined power potential” (2005). This law establishes legal, economic and organizational conditions of the activity of the subjects of relations in the sphere of energy saving as regards the utilization of co-generation plants regulates relations connected with the particulars of production, transmission and supply of thermal energy form co-generation plants. The purpose of the Act is setting legal conditions for the improvement of the use of fuel in the process of energy production and in other technological processes, development and regulation of the technologies of the combined production of electric and thermal energy and ensuring stable and reliable energy supply at the regional level. The state policy in the sphere of the utilization of co-generation plants is based upon efficient use of fuel and meeting standards of environmental safety.

### ▪ ***Institutional Framework for Environmental Management***

Environmental issues at the political level are dealt with by the Ministry of Environmental Protection and Natural Resources of Ukraine, which, inter alia, formulates and implements State policy in the areas of environmental protection as well as ecological environment and within the limits of the powers provided by law, radiation, biological and genetic safety. At the same time, the Ministry of Environmental Protection and Natural Resources of Ukraine, inter alia, ensures formulation and implementation of State policy in

the areas, as follows: geological study and rational use of subsoil; implementation of state supervision (control) in environmental protection, rational use, reproduction and protection of natural resources; implementation of state geological control, as well as the preservation of the ozone layer, management of adverse anthropogenic impact on adaptation to climate change, and meeting the requirements of the UN Framework Convention on Climate Change and its Kyoto Protocol, the Paris Agreement.

At the strategic level, environmental policy priorities are defined in the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period until 2030, approved by the Law of Ukraine dated February 28, 2019 No. 2697-VIII.

The Ministry of Health of Ukraine (the Deputy Minister - Chief State Sanitary Doctor of Ukraine), the State Service of Ukraine for Labor Affairs, the State Service of Ukraine for Food Safety and Consumer Protection are also central executive authorities responsible for formulating State policy on the health and epidemiological well-being of the population and implementing State policy in this area.

Instead, the main authority in the system of central executive authorities providing formulation and implementation of state regional policy, state policy in the sphere of improvement of settlements, construction, urban development, spatial planning of territories and architecture; state policy in the sphere of technical regulation in construction, as well as providing the formulation of state policy in the sphere of architectural and construction control and supervision; policy in the sphere of control of housing and utility services and policy in sphere of energy efficiency of buildings is the Ministry of Communities, Territories and Infrastructure Development of Ukraine.

Environmental policy is directly implemented by various State agencies, services and administrations (such as the State Environmental Inspectorate of Ukraine, the State Service of Geology and Subsoil of Ukraine, the State Water Resources Agency of Ukraine, oblast state administrations/oblast military administrations, etc.) or local authorities.

The State Environmental Inspectorate of Ukraine (SEI) is the central executive authority, whose activities are directed and coordinated by CMU through the Ministry of Environmental Protection and Natural Resources of Ukraine, and which implements State policy of State supervision (control) in the sphere of environmental protection, rational use, reproduction and protection of natural resources. Among the main tasks of the State Environmental Inspectorate are to exercise, within the powers provided by law, State supervision (control) of compliance with the requirements of the legislation, in particular, on waste management, hazardous chemicals, pesticides and agrochemicals.

Within large cities, local authorities monitor the state of the natural environment (garbage collection, street cleaning, green areas, etc.) through their Departments for Urban Improvement and Preservation of the Natural Environment (the names of these departments may vary from city to city, but their functions are very similar).

The Prosecutor's Office of Ukraine, in particular, the Prosecutor General's Office of Ukraine and the regional prosecutors' offices has in its structure a specialized environmental prosecutor's office (as a structural subdivision). It carries out pre-trial investigation and public accusations in criminal proceedings concerning criminal offenses in the field of environmental protection.

### ▪ ***International conventions ratified by Ukraine***

**The Vienna Convention** for protection of ozone layer and the Montreal Protocol on ozone-depleting substances are an international treaty aimed at ending the use of ozone-depleting substances (ozone-depleting substances - ODS). This is the first international convention of any type that has reached universal ratification.. Therefore, it is important to first make sure that there are alternatives that do not contain ODS, available for purchase, or that waste containing these substances is properly treated and disposed of. The Vienna Convention was ratified by Ukraine on June 18, 1986.

**The Basel Convention** related to the control of transboundary movements of hazardous wastes and their disposal aims to protect human health and environment from the negative effects of hazardous wastes.

This Convention aims to reduce waste generation, promote environmentally sound waste management practices, and restrict the transboundary movement of hazardous wastes. The Convention defines four streams of hazardous waste and determines how they should be treated and disposed of. The Basel Convention was ratified by Ukraine on October 8, 1999; and entered into force on January 6, 2000.

**The Stockholm Convention** on persistent organic pollutants (POPs) aims to protect human health and environment from the harmful effects of POPs by eliminating and/or controlling the production, trade, use and release of POPs. To avoid generation of POPs, the Convention recommends using non-incineration technologies or having incinerators of appropriate quality, meeting national and international standards for uPOPs emissions. The Stockholm Convention was ratified by Ukraine on September 25, 2007; and entered into force on December 24, 2007.

**The Rotterdam Convention** on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade, promotes the joint responsibility of exporting and importing countries for the protection of human health and the environment from the harmful effects of certain hazardous chemicals and pesticides and provides for the exchange of information on such chemical substances. The Convention was ratified by Ukraine on December 6, 2002.

**The Minamata Mercury Convention** is the latest international treaty aimed to protect human health and environment from anthropogenic and mercury emissions. The convention calls for the purchase of mercury-free alternatives in health care and for the implementation of appropriate solutions in the field of waste management. MEPNR has prepared the draft Law of Ukraine 'On Ukraine's accession to the Minamata Convention on Mercury', which was sent for approval to the relevant central executive authorities. The Convention was ratified by Ukraine on May 29, 2023.

In addition to the above-mentioned five international environmental conventions, within the framework of the Project, it is possible to repeatedly refer to the following:

**The Aarhus Convention** on access to information, public participation in the decision-making and access to justice in environmental matters. The purpose of the convention is to assist member countries in establishing rights of citizens (individuals and their associations) to environmental information ('access to environmental information'). This may include information on the state of the environment, policies or measures taken, as well as on human health and safety where this can be affected by the state of the environment. In addition, the Convention requires public authorities to actively disseminate the environmental information they possess. After ratifying the Convention, the county committed itself to ensuring citizens' access to environmental justice. The obligation is to provide a package of guarantees allowing citizens to apply to a national court to verify whether the public authority has complied with the law and the relevant legislative requirements. Ratified by Ukraine on July 6, 1999.

**International Labor Organization Conventions:** Ukraine has ratified and has in force 9 out of 10 fundamental conventions (i.e. Forced Labor Convention, Occupational Safety and Health Convention, Minimum Age Convention, Worst Forms of Child Labor Convention, etc.), and several other 52 priority/governance and technical conventions.

## **Natural Habitats and Physical Cultural Resources (Core Principle 2)**

*(Excerpt of the E&S Systems Assessment (ESSA) prepared for LEARN)*

Most of natural habitats in Ukraine either designated as Nature Protection Fund lands and are protected under relevant legislation, or (rarely) as forest lands with special use status.

Ukraine's cultural heritage sites are protected by regulations under the Law of Ukraine "On Protection of Cultural Heritage." The Law of Ukraine "On Protection of Cultural Heritage" provides the foundation for protecting cultural heritage objects, requiring developers to obtain necessary approvals and permits before commencing work that could affect these sites. National regulations mandate that developers take into



account restrictions on economic activities in areas with cultural heritage objects. A Chance Find Procedure ensures that any unexpected discoveries of cultural artifacts during construction are handled appropriately, preserving the nation's cultural heritage while allowing for necessary development.

#### Steps for Obtaining Permission and Handling Chance Finds

**Historical and Urban Planning Justification:** before starting any project, developers must obtain a historical and urban planning justification, which includes a thorough investigation of the site for cultural heritage objects.

**Project Documentation Approval:** developers need to get their scientific and project documentation approved and obtain permits for construction works from cultural heritage protection authorities is carried out exclusively through the electronic office of the Unified State Electronic System in in the field of construction.

Chance Find Procedure – actions upon discovering cultural heritage objects:

- **Stop Work Immediately:** cease all construction activities in the vicinity of the discovery to prevent any damage.
- **Secure the Site:** protect the area to ensure the find remains undisturbed. This might involve fencing off the site and monitoring it to prevent unauthorized access.
- **Notify Authorities:** immediately inform the relevant cultural heritage protection authority about the find. Provide detailed information, including:
  - **Location of the discovery:** provide description and, if possible, photographs of the find.
  - **Preliminary Report:** document the discovery, including the date, time, and circumstances of the find, along with contact details of on-site personnel.
  - **Assessment by Experts:** Wait for the cultural heritage protection authority to send experts to the site. Their assessment will determine the significance of the find and recommend further actions.
- **Implementing Protective Measures.** Based on expert recommendations, developers must implement measures to protect the discovered objects. This may include:
  - Provision of physical fence /barriers
  - Covering the objects to shield them from environmental factors.
  - Other site-specific measures as advised by the experts.
- **Detailed Reporting:** submit detailed reports to the cultural heritage protection authority, documenting the find, protective measures taken, and any further risks identified.
- **Electronic Submission:** use the Unified State Electronic System in the field of construction (Єдина державна електронна система в сфері будівництва - EDESSB) to submit all documentation and reports, ensuring compliance with legal requirements.
- **Resumption of Work:** obtain written approval from the cultural heritage protection authority to resume construction activities. Ensure all protective measures are in place and that the work will not endanger the cultural heritage objects.
- **Ongoing Monitoring:** monitor the site continuously during further construction to ensure no additional cultural heritage objects are discovered or disturbed.

Adhering to the Chance Find Procedure is crucial for preserving Ukraine's cultural heritage while facilitating development projects. Immediate action upon discovering cultural artifacts, proper notification and documentation, and compliance with the Law of Ukraine "On Protection of Cultural Heritage" ensure that cultural heritage objects are safeguarded. The use of the EDESSB system streamlines the approval process, making it more efficient and transparent.



### **Protection of public and worker safety (Core Principle 3)**

*(Excerpt of the ESMF prepared for REPOWER)*

#### ▪ **Social Protection, Labor Standards, Occupational Health and Safety**

Ukraine is a member state of the ILO since 1954 (as part of the former USSR) and since 1991 as an independent state. Ukraine has ratified 71 ILO International Labor Standards (Conventions), including the eight fundamental and four priority Conventions.

Social protection, safety and labor standards are governed by the following sets of laws:

- Law on “Labor Protection” (1992) defines the basic provisions for the implementation of the constitutional right of employees to protect their life and health at work and safe and healthy working conditions.
- Law of Ukraine “On Labor Safety” defines the basic provisions for the implementation of the constitutional right of employed citizens to ensure occupational health in the course of their employment, as well as to proper, safe and healthy working conditions. In addition to many other provisions of the law, employees must receive training in occupational health and safety, as well as personal protective equipment. In the case of industrial accidents, the law provides that the employer is obliged to organize investigations and keep records in accordance with the procedure established by the CMU Resolution (No. 1232 of 30.11.2011).
- Law on “Mandatory state social unemployment insurance” (2000);
- Law on “State social aid to indigent families” (2000);
- Law on “State aid to families with children” (1992);
- Law on “Mandatory state social insurance against industrial accident and occupational disease that caused disability” (1999);
- Law on “Vocational education” (1998);
- Law on “Mandatory State Pension Insurance”, No. 1058-IV (2003), amended in 2004 -2012.
- Labor Code of Ukraine (1972);
- Law of Ukraine on Organization of Labor Relations under Martial Law (2022) determines the features of civil service, service in local self-governments, labor relations of employees of all enterprises, institutions, and organizations in Ukraine regardless of the form of ownership, type of activity, and industry affiliation, representative offices of foreign economic entities in Ukraine, as well as persons working under an employment contract concluded with natural persons (hereinafter - employees) during the period of martial law introduced in accordance with the Law of Ukraine on the Legal Regime of Martial Law.
- Resolution of the Cabinet of Ministers of Ukraine ‘On Remuneration of Employees Based on the Unified Salary Scale of Grades and Coefficients for Remuneration of Employees of Institutions, Establishments and Organizations of Certain Branches of the Budget Sphere’ No. 1298 dated August 30, 2002.

Some relevant of the state building codes of Ukraine, sanitary rules and industry regulations are listed below:

- DBN A.3.2-2-2009 OSBP “Occupational Safety and Industrial Safety in Construction. Substantive provisions”;
- DBN V.1.2-7-2008 “Basic requirements for buildings and structures. Fire Security”;
- DBN B.1.2-9-2008 “Basic requirements for buildings and structures. Safety of operation”;
- DBN B.1.2-10-2008 “Basic requirements for buildings and structures. Noise protection”;
- DBN V.1.1-31: 2013 "Protection of territories, buildings and structures from noise";
- DSN 3.3.6.039-99 "State sanitary standards of industrial general and local vibration";
- DSTU EN 13034:2017 Protective clothing. Protection against liquid chemicals. Performance requirements for chemical protective clothing offering limited protective performance against liquid chemicals (Type 6 and Type PB [6]) (EN 13034:2005 + A1:2009, IDT).

- DSTU EN 166:2017 Personal eye protection equipment. Technical Specifications (EN 166:2001, IDT).

Promotion of gender equality and protection of non-discriminatory measures with respect to gender are embedded in the following legislation:

- Law “On principles of prevention and combating discrimination in Ukraine” (2012)
- Law “On amendments to certain legislative acts of Ukraine regarding prevention and combating discrimination” (2014).

- **Occupational Health and Safety**

The Law of Ukraine “On Labor Safety” defines the basic provisions for the implementation of the constitutional right of employed citizens to ensure occupational health in the course of their employment, as well as to proper, safe and healthy working conditions. In addition to many other provisions of the law, employees must receive training in occupational health and safety, as well as personal protective equipment. In the case of industrial accidents, the law provides that the employer is obliged to organize investigations and keep records in accordance with the procedure established by the CMU Resolution (No. 1232 of 30.11.2011).

*(Excerpt of the Labor Management Procedures (LMP) prepared for REPOWER)*

Ukraine has a progressive legislative framework on labor protection and safety. The Constitution of Ukraine provides for the right to work and the opportunity to earn a living by performing work that was chosen at will (Article 43). Article 43 of the Constitution of Ukraine guarantees a safe and healthy professional environment, as well as a salary not lower than that determined by the Law; it prohibits the employment of women and minors in jobs that are dangerous to health. Article 43 also provides for the protection of citizens against unlawful dismissal from work and provides for timely remuneration for work performed. The right of workers to strike is also guaranteed by the Constitution of Ukraine (Article 44). Article 45 of the Constitution guarantees the right to breaks, holidays and rest. Social protection of employees is also guaranteed by Article 46 of the Constitution of Ukraine.

All constitutional provisions are supported by such laws of Ukraine with appropriate amendments:

The Labor Code of Ukraine (initial Law No. 322-VIII, adopted on December 10, 1971); this is the principal legislative act governing employment relations in Ukraine;

Law of Ukraine ‘On Holidays’ (Law No. 504/96-VR, adopted on November 15, 1996);

Law of Ukraine ‘On wages’ (Law No. 108/95-VR, adopted on March 24, 1995);

Law of Ukraine ‘On trade unions, their rights and guarantees of activity’ (Law No. 1045-XIV, adopted on September 15, 1999);

Law of Ukraine ‘On Labor Protection’ (Law No. 2694-XII, adopted on October 14, 1992).

The requirements for health and safety at work in Ukraine are stipulated by the Law of Ukraine ‘On Labor Protection’, which specifies in detail the basic constitutional provisions on the rights of workers to protect their lives, health at the work, proper, safe and healthy working conditions and the regulation of the relationship between employer and employee on safety, occupational hygiene and working conditions. In addition, the Law establishes a uniform labor protection procedure in Ukraine.

Every legal and natural person shall comply with the provisions of this Law when hiring employees or part-time/assignment-based employees. This Law establishes the employer's responsibility for the creation of safe working conditions, the state of collective and individual protective means against harmful effects of production processes, as well as equipment.

The law gives workers the right to refuse work if the working conditions are hazardous to their life and health (Article 6). Workers have the right to benefits and compensation for harsh and dangerous working conditions and for damage caused by violations of labor protection rules (Article 7). It has been established

that the Social Insurance Fund for Occupational Accidents and Diseases of Ukraine shall compensate for damage to the health of an employee or in the event of his death. In addition, according to the Collective Labor Agreement, the employer may pay additional compensation to the injured persons or their family members from their own funds (Article 9).

This Law also regulates the protection of certain categories of workers: women, minors and persons with disabilities (Articles 10-12). In particular, the Law prohibits the employment of women in hazardous and dangerous working conditions, underground works, except for non-physical work and work related to the provision of sanitary and amenity services. It is also prohibited to hire women to lift and transport things with a weight exceeding the established limits.

A separate section of the Law is devoted to the regulation of relationship in labor protection and management (Chapter 3). This chapter defines the system of state authorities and institutions responsible for ensuring compliance with labor legislation and legal protection of labor safety.

The Law provides for penalties for non-compliance and violation of the provisions of the Law.

**Types of employment contracts.** According to the Constitution of Ukraine (article 43) everyone has the right for labor and for opportunity to earn for living by job that were chosen freely by person.

Employment contracts are defined by the Labor Code (for example, Article 21). An employment contract is a contract that enters into force between the employee and the owner of the enterprise/institution, according to which the employee performs the tasks/works defined by the agreement.

Non-residents have the same rights to work in Ukraine as any Ukrainian. However, non-residents need to provide certain documentation before starting work in Ukraine (work permit). Article 23 of the Labor Code of Ukraine defines the following types of employment contracts based on the contract length:

- Open-ended employment contract. This type of contract is most common in Ukraine. In addition, this type of contract is governed by the Labor Code and the above-mentioned labor legislation of Ukraine, the internal rules of the Company and the collective agreement.
- Term contract. The only difference between this type of contract and the former is that the Parties limit their cooperation to a certain period of time, based on the type of activity performed.
- Assignment-based contract. A special type of contract may be entered into to provide an assignment-based service where special skills or short-term support are required. This special form of contract is actually a service contract. Using this type of agreement, the parties agree and acknowledge that all terms of their cooperation are contained in the contract (agreement).

**Probation.** According to Article 27 of the Labor Code of Ukraine, the probationary period for permanent employees may not exceed three consecutive months. In some cases, it may last up to six consecutive months, but this must be agreed with the Primary Trade Union Organization.

**Wages and deductions.** The Law of Ukraine 'On Wages' (Article 1) defines wages as remuneration calculated in monetary terms, which the employer pays to the employee for the work performed by him under the employment contract. Remuneration consists of the basic salary - remuneration for work performed in accordance with the established labor standard (working hours, efficiency of work, etc.) and additional wages - remuneration for excellent performance or efficiency or for harmful working conditions. According to Article 3 of the aforementioned Law, the minimum wage is determined by the monthly or hourly wage rate determined by legislation. If the salary of an employee who performs work for a month is lower than the minimum wage, the employer makes an additional payment up to the minimum wage. Since January 1, 2023 the minimum wage is UAH 6,700 (about USD 185). Usually, employers automatically deduct personal income tax and health and social insurance contributions from wages and transfer them to the relevant fiscal authorities.

**Working hours.** Labor Code of Ukraine (Article 51) provides a standard 40-hour working week. Reduced working hours are defined as: (a) for employees aged 16 to 18 - 36 hours per week; (b) for persons aged

15 to 16 (students aged 14 to 15 working during the holidays) - 24 hours per week; (c) for workers performing work in hazardous working conditions - no more than 36 hours per week.

The law also provides for the reduction of working hours for certain categories of workers (teachers, doctors, etc.). This reduction can be compensated by enterprises and organizations for women raising children under the age of 14 or children with disabilities.

According to Article 54 of the Labor Code of Ukraine, fixed working hours (shifts) are reduced by one hour when working at night.

Night work shall be equivalent to day work if required by production conditions, in particular continuous production, as well as shift work during a six-day week with one day off. Night working hours are from 22:00 p.m. to 06:00a.m.

Night work by women is not permitted except in those sectors of the national economy where this is particularly necessary and permitted as a temporary measure. Pregnant women and women raising children under three years of age may not be engaged in night work, overtime work, or work on weekends or business trips. Women raising children between the ages of 3 and 14 or children with disabilities may not be employed in overtime work or go on business trips without their consent. (Labor Code of Ukraine, Articles 175-177).

**Breaks.** Workers must have a break for rest and meal. Breaks should not last more than two hours. Break is not included in the working time. Breaks for rest and meal are usually granted four hours after the start of work. The start and end time of the break is established by internal rules. Employees use break time at their own discretion. During this time, they may be absent from the workplace. (Article 66 of the Labor Code of Ukraine).

**Weekends and vacations.** For a five-day working week, employees have two days off per week and for a six-day working week one day off. Uninterrupted weekly rest shall be at least forty-two hours.

Work on weekends is prohibited. The employment of certain workers on such days is permitted with the authorization of the elected body of the trade union organization (trade union representative) of the enterprise, institution or organization and only in exceptional cases specified by law.

Engagement of individual employees on weekends is permitted in such exceptional cases: (a) to prevent or deal with the consequences of natural disasters, epidemics, epizootics, industrial accidents and their immediate consequences; (b) to prevent accidents that threaten or may threaten the life or normal life of people, may cause loss or damage to property; (c) to perform unforeseen emergency works, on which further normal operation of the enterprise, institution or organization of both the whole and their individual subdivisions depends; (d) to perform urgent work in order to avoid or prevent the downtime of rental equipment or the accumulation of cargo at points of departure and destination.

Employees are engaged to work on weekends on the basis of a written order (order) of the owner or an authorized body.

Work on a holiday may be compensated by agreement of the parties by providing another day of rest or in cash in double amount. (Labor Code of Ukraine, Articles 66-71).

Employees of enterprises, institutions or organizations, regardless of their ownership and sector, as well as those working under an employment contract with individual entrepreneurs, have the right to annual (basic and additional) leave without loss of employment (position) and salaries for these periods.

The Law of Ukraine 'On Vacations' defines types of leave: 1) annual leave: basic leave; additional annual leave for work in harmful and difficult working conditions; additional annual leave for irregular working hours; etc. (Labor Code of Ukraine, Article 77); 2) leave for education, pregnancy and childbirth; 3) research leave; 4) maternity leave; 2) leave without compensation.

The total duration of annual basic and additional leave may not exceed 59 calendar days, and for workers employed in the mining industry - 69 calendar days (Article 10 of the Law 'On Vacations').

Annual basic leave is granted to employees for a period of not less than 24 calendar days per completed working year calculated from the date of conclusion of the employment contract. Employees with 18 or more years of service are granted annual basic leave within 31 calendar days (Labor Code of Ukraine, Articles 74-75).

In addition to annual leave, employers must provide other paid and unpaid leave or compensatory time off/sick leave during the calendar year.

National festivals, weekends and public holidays coinciding with leave are not included in the leave period when calculating the days of annual paid leave (Labor Code of Ukraine, Articles 77-78).

**Overtime.** The employer may order overtime work in cases related to national defense or emergency situations. Article 61 of the Labor Code defines in detail the circumstances in which an employer may request overtime work.

According to Article 62 of the Labor Code of Ukraine, the following categories of people should not be involved in overtime work: (1) pregnant women and women with children under the age of three (Labor Code of Ukraine, Article 176); (2) persons under 18 years of age (Labor Code of Ukraine, Article 192); (3) employees who study full-time or undergo in-service training (Labor Code of Ukraine, Article 220); etc.

Women who raise children between three and fourteen years of age or have a child with disability may work overtime only with their consent (Labor Code of Ukraine, Article 177).

Overtime must not exceed four hours for the next two days and 120 hours per year for each employee. The owner or the body authorized by him must keep records of overtime work of each worker (Labor Code, Article 65).

Overtime is paid at twice the normal hourly rate (Labor Code of Ukraine, Article 106).

**Labor disputes.** The Labor Code of Ukraine contains provisions allowing employees to resolve individual and collective disputes between an employer and employee(s) regarding the terms of an employment agreement or other aspects of work, including safety and health at work (Articles 221 - 241).

Labor disputes may be dealt with by special labor commissions for labor disputes or courts.

The procedure for consideration of labor disputes by the commission is provided for in Articles 223 - 230 of the Labor Code of Ukraine. If the parties disagree with the recommendations of the Commission, the conflict is resolved in the courts. The procedure for consideration of labor disputes by courts is provided for in Articles 231 - 241 of the Labor Code.

## **Land Acquisition and Physical and Economic Displacement (Core Principle 4)**

*(Excerpt of the Resettlement Policy Framework (PRF) prepared for REPOWER)*

### **National legislation**

- The Constitution of Ukraine (Articles 13, 14, 41) stipulates that "no one shall be unlawfully deprived of the right for property. The right for private property shall be inviolable." and "The expropriation of private property objects may be applied only as an exception for the reasons of social necessity, on the grounds of, and in the order established by law, and on terms of advance and complete compensation of the value of such objects. The expropriation of such objects with subsequent complete compensation of their value shall be permitted only under conditions of martial law or a state of emergency." (Article 41)
- Law of Ukraine "On Alienation of Land Plots and Other Objects of Immovable Property Located Thereon in Private Ownership for the Social Needs and on the Grounds of Social Necessity" of 17.11.2009 No. 1559-VI stipulates legal, organizational, and financial principles of regulation of public

relations arising in the course of acquisition of land plots, other property objects placed on them, owned by natural or legal persons, for public needs or for reasons of public necessity.

- Land Code of Ukraine (in particular, Articles 143, 146, 147, 149-151) which provides the grounds for the involuntary termination of land rights, acquisition of land for public needs and the procedure for conciliation of issues related to the land acquisition for public needs or for reasons of public necessity.
- Civil Code of Ukraine (of 16.01.2003, No. 435-IV), which establishes the procedure for termination of title to immovable property due to the acquisition or alienation of the land on which the property is located, for national needs, and regulates issues related to the protection of property rights (Articles 3.50-351);
- Code of Administrative Procedure of Ukraine (of 06.07.2005), which establishes the procedure for conducting legal proceedings related to the acquisition of land for national needs.
- Law of Ukraine "On Regulation of Urban Development Activity" of 19.05.2011 No. 3395-VI
- Law of Ukraine "On Land Valuation" of 11.12.2003 No. 1378-IV6
- Law of Ukraine of 21.05.1997 No. 280/97-BP "On Local Self-Government in Ukraine"
- "Procedure for Determination and Compensation of Losses to Land Owners and Land Users" adopted by the Decree of the Cabinet of Ministers of Ukraine of 19.04.1993 No. 284
- Decree of the Cabinet of Ministers of Ukraine of 11.10.2002 No. 1531 "On Expert Valuation of Land Plots"
- Law of Ukraine "On Evaluation of Property, Property Rights and Professional Appraisal Activity in Ukraine" of 12.07.2001 No. 2658-III
- Law of Ukraine "On State Land Cadaster" of 07.07.2011 No. 3613-VI
- "Procedure for Performance of Notarial Acts by Notaries of Ukraine" approved by the Order of the Ministry of Justice of Ukraine of 22.02.2012 No. 296/5.

Compensation for temporary use of land during construction is regulated in the following Decrees of the Cabinet of Ministers:

- Decree of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279 "On Amount and Procedure for Determining Agricultural and Forest Production Losses to be Refunded" and Appendix.
- "Procedure for Determination and Compensation of Losses to Land Owners and Land Users" adopted by the Decree of the Cabinet of Ministers of Ukraine of 19.04.1993 No. 284

### **Gap analysis between national legislation and WB ESSs**

In Ukraine, the right to dispose of land and other property are based on registration of ownership.

However, under the WB involuntary resettlement standard, affected persons are entitled to some form of compensation whether or not they own a registered land or property title, if they occupy or use the land prior to the cut-off date. The focus of the WB standards is to mitigate the adverse impacts of poverty, where any adverse impacts occurring are directly or indirectly attributable to activities funded by the project. In cases where PAP have no ownership or tenure rights according to Ukrainian law due to lack of registration, the provisions of the Lender requirements will be applied in terms of their rights for compensation, consultation, and grievance mechanisms. Where there is a difference between the compensation requirements of the laws of Ukraine and WB requirements, the more beneficial to the affected people, will be employed.

Table below provides an analysis of the differences between Ukrainians Laws and WB requirements:



Ukrainian Laws and Regulations	World Bank requirements under ESF
Only officially registered/legal buildings are subject to compensation for damages / destruction caused by the project	All buildings are subject to compensation for damages / destruction caused by the project
Only officially registered landowners will be paid compensation for loss of profit / business caused by the project	Registered and non-registered tenants will be paid compensation for loss of profit / business caused by the project, regardless of registration.
There are no special provisions identifying the process of involuntary resettlement planning, as well as specific tools, including preparation of any plan pertaining to land expropriation and resettlement	Time-limited in terms of application, the resettlement action plan shall be prepared prior to the commencement of compensation
No provisions are available for: - Rehabilitation of income / livelihoods, - Assistance to landowners / tenants who have been severely affected by project activity No compensation or assistance is envisaged with respect to the movable property	Lender’s standards provide for rehabilitation of income / livelihoods, compensation for serious losses, and costs incurred by landowners / tenants during resettlement. Compensation shall include: - Funds for improving living standards of displaced persons; - Costs for displacement; - Compensation for lost property; - Other transportation costs
Land expropriation and resettlement related decisions are exceptionally negotiated between landowners / official tenants and local authorities alienating assets	The information showing containing an estimate of the assets lost as a result of the project activity, namely, assets value, compensation amount / financial support will be disclosed to landowners and tenants prior to the start of the project. The general provisions of RAP (including the Rights Matrix (eligibility) for compensation) will be disclosed to public, whilst the personal data on losses / compensation will only be available to individuals / homeowners who have been adversely affected by the project. The project affected persons will be consulted on the provisions of the RAP.
The Ukrainian legislation lacks a special plan for public consultations.	Consultations with stakeholders and public involvement are an integral part in RAP preparation and implementation
According to Ukrainian legislation only personalized grievances or appeal should be considered.	The Project implementer should consider all grievances and appeals including grievances from Contractor’s personnel and anonymous
The Ukrainian legislation have not special provisions for vulnerable people support during resettlement	Vulnerable people who warrant specific assistance must be identified and supported throughout the resettlement process. In accordance to the World Bank regulations that’s mandatory to foresee measures to be provided to enable poor and vulnerable people (including

Ukrainian Laws and Regulations	World Bank requirements under ESF
	women) who are physically displaced or affected by economic displacement to improve their incomes to at least national minimum standards.

### **Inclusion of Vulnerable Groups (Core Principle 5)**

*(Excerpt of the ESSA prepared for LEARN)*

- Inclusion:** Ukrainian regulatory framework contains a wide range of policies and legislation at various administrative levels pertaining to gender and social inclusion, and relevant to inclusive access of program benefits for vulnerable groups. The 2013 Law on Principles of Prevention and Combating Discrimination in Ukraine endorses a general definition of discrimination, promoting the rights and freedoms of individuals discriminated against on the basis of sex, among other characteristics. Along these lines, the 2018–21 State Social Programme on Equal Rights and Opportunities of Women and Men intends to eliminate institutional and legal barriers to gender equality.
- Gender:** As explicitly stated in the 1996 Constitution, amended in 2016, gender equality is assured by providing women with the same opportunities in areas including education and vocational training (Art. 24). The 2005 Law on Ensuring Equal Rights and Opportunities for Women and Men is entirely dedicated to the promotion of equal rights and opportunities in the education sphere in terms of access, assessment, grants and loan benefits (Art. 21).
- Gender Based Violence (GBV):** In 2020, Ukraine became a full member of the Biarritz Partnership aimed at prevention of gender-based violence (GBV), ensuring fair and quality education and health, promoting women’s economic empowerment, ensuring full equality between men and women in public policies. In June 2020, the Ukrainian Parliament approved The Istanbul Convention which is in times of peace and in situations of armed conflict and focus on protect women against all forms of violence, contribute to the elimination of all forms of discrimination against women. Ukraine closely works with international partners on the issues of gender equality, equity and prevention of gender base and domestic violence. Since 2012, in Ukraine acts “Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Violence”.
- Persons with special needs or disabilities:** Ukraine recognizes the action of Section 24 of Convention on the Rights of Persons with Disabilities, which states the right of persons with disabilities to education without discrimination. The 2030 National Strategy on creating a barrier-free space in Ukraine is focused on creating equal opportunities for each person to exercise their rights, to receive services on an equal basis with others by integrating physical, informational, digital, social and civic, economic and educational accessibility into all spheres of public policy. Special legislative acts (State Building Regulation) are applicable requiring that such structures have access for people with physical disabilities, namely the “Inclusiveness of Building and Constructions” DBN V.2.2-40:2018; and “Protective Buildings of Civil Defense” DBN 2.2-5:2023.



- **Ethnic and Linguistic Groups:** There are no Indigenous Peoples in Ukraine. According to the last recorded census (2001), the main minority groups include Russians, Belarusians, Moldovan, Crimean Tatars, and Bulgarians. Ukraine also has smaller populations of Poles, Jews, Romanians, Armenians, Hungarians, Roma and other nationalities. An updated census planned for 2020 wasn't carried out because of the COVID19 pandemic. The article 21 of the Law On Supporting the Functioning of the Ukrainian Language as the State Language guarantee that persons from ethnic minority peoples of Ukraine shall be guaranteed the right to study at communal educational institutions, in order to receive preschool and secondary general education, in the language of the respective groups of Ukraine, along with the State language. To protect rights of Crimean Tatars, the MoES has translated textbooks into native language of this minority. Prior to the escalation, Roma women and men experienced discrimination in the labour market. There is a lack of civil status documentation and low education levels particularly among Roma women. Roma girls and women, who were already disadvantaged in terms of access to schooling, will most likely face further challenges that will have long-term effects on their access to opportunities, including livelihoods and services.
- **Internally Displaced Persons:** Other vulnerable groups are Internally Displaced Persons (IDPs). Though the right of education by IDPs is enshrined in the Law, the real situation with accessing education in a new place of living can differ owing to lack of available space. In general, according to the IOM data for the end of March 2024, total number of IDPs equals 3,387,291 persons, among them 60% are female, 26% are individuals under 18 and 4% are individuals with disabilities. The highest number of IDPs are registered in areas, such as Lvivska, Ivano-Frankivska, Zakarpatska and Kyivska oblasts.

### **Avoidance of Exacerbating Social Tension (Core Principle 6)**

*(Excerpt of the E&S Management Framework (ESMF) prepared for REPOWER)*

- **Legal regulation of access to information and public participation**

In Ukraine, access to environmental information was ensured after the Parliament ratified the Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters in 1999. The Ministry of Ecology and Natural Resources of Ukraine (which existed prior to the establishment of the Ministry of Environmental Protection and Natural Resources of Ukraine) has developed several regulatory legal acts specifying the provisions of this Convention.

Detailed requirements for the organization of public hearings on environmental issues can also be found the Procedure for the development of urban planning documentation, approved by the Order of the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine No. 290 of November 16, 2011 (on the development of master plans of cities and master schemes of territorial planning). But these requirements do not apply to the Project.

General instructions on how public hearings should be organized in the case of a full-scale environmental impact assessment are described in the Procedure for Public Hearings in the Environmental Impact Assessment, approved by CMU Resolution No. 989 of December 13, 2017. This Procedure was developed within the framework of the Law of Ukraine 'On Environmental Impact Assessment'.

In 2011, the Verkhovna Rada of Ukraine adopted the Law of Ukraine 'On Access to Public Information'. This Law covers a much broader area, but it also defines environmental information issues (art. 13, para 2). According to this article, not only government authorities, but also economic entities must provide information (if they possess it) on the state of the natural environment, the quality of food and consumer goods, disasters, natural disasters and other events that may threaten the health and well-being of citizens.

Local governments are responsible for organizing public consultations, and different procedures have been agreed in different territorial communities (large and small cities, villages). As a rule, public hearings may be convened by the local self-government either on its own initiative or at the request of community

representatives. Such hearings can be held at any level: in villages (rural east), small and large cities. Decisions of such hearings are considered recommendations.

The procedure of public consultations on the formation and implementation of state policy was approved by CMU Resolution No. 996 dated November 3, 2010 'On ensuring public participation in the formation and implementation of state policy'. This procedure establishes that all ministries, other central authorities, regional and district administrations must have Public Councils.

This resolution also states that the authority must organize mandatory public hearings on specific topics (proposed legislation; State and regional programs; budget execution reports), as well as other public consultations requested by civil society organizations active in the region. The Public Council can also initiate public hearings and plays an important role in their preparation. Public consultations are organized 'to involve citizens in the activities of the Government in order to provide them with access to information on the activities of the authorities, to ensure publicity, openness and transparency of the above-mentioned authorities.' The decisions of such hearings are considered recommendations.

### ***ANNEX3 – Emergency Preparedness and Response Plan (EPRP) (sample)***

#### **Risk identification and assessment.**

Risk identification helps to identify vulnerabilities in a timely manner through their correlation with subsequent better response to priority areas and developing timely mitigation measures that were not previously envisaged. These risks primarily involve community members and workers who interact with this war fighting context in ways that impact their occupational health and safety, their labor conditions, and the health and safety of nearby communities.

The following main risks were identified:

a) Risks of missile strikes of varying intensity. Missile strikes can cause:

- Injury to employees, staff, visitors;
- Damage to facilities, assets or equipment;
- Interruption of water/electricity supply to processing facilities;
- Epidemiological consequences due to poor quality of water treatment or uncontrolled discharges due to accidents caused by missile strikes;
- Environmental consequences (pollution of surface and ground water, land resources) associated with improper operation of reconstructed facilities or equipment

b) Risks of accidentally finding unexploded ordnance/missiles

- Risk assessment involves preliminary classification of identified risks according to selected parameters.
- Scale of impact: local or widespread within the country;
- Ability to anticipate risk: foreseen or unforeseen; which may or may not be avoided;
- Severity of physical injury: ranging from minor to severe.

c) Risks due to natural, industrial and ecological hazards posing large-scale health and safety risks including dam failures, flooding coal mines, factories and powerplants exposed to shelling, toxic landfills, and chemical spills. These risks include ill-health resulting from exposure to war-related environmental contamination (e.g., oil from military vehicles, depleted uranium exposure from salvage operations, ionizing radiation exposure, impacts of airborne toxins such as asbestos from collapse of war ruins).

#### **Emergency Preparedness Action Plan (EPRP)**

##### **1. Framework action plan for the threat of missile attack**

- It is necessary to develop action plans, including evacuation plans for workers and visitors to bomb shelters/shelters in the event of an air raid, artillery shelling and bombing, as well as the actions of personnel before and during hostilities with a minimum level of threat to the life and health of workers and visitors. Internet resources can be studied for information on shelters location together with consultations with local administration for the list

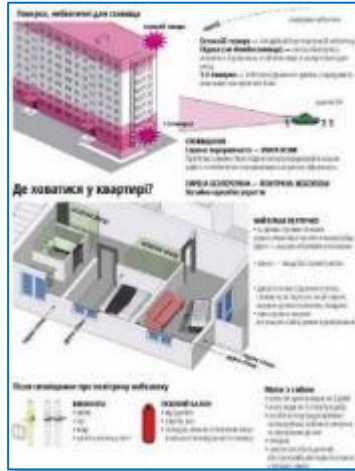
of available shelters and checking those which are the closest and operational. After the check, all Emergency Evacuation Procedures should be updated to provide guidance to the nearest and alternative shelters.

- All workers who are planned to be allowed to work at the construction site, should be instructed on the action plan in case of an air raid alert;
- Facilities or construction sites should provide visible places schemes that indicate the path to bomb shelters/shelters;
- Facilities should provide in visible places clear and concise instructions on how to respond to a missile strike;
- Facilities or construction sites should provide in visible locations a list of emergency and support services contact numbers (see paragraph 4 of this Emergency Preparedness Action Plan);
- In the event of an air raid, it is necessary to make an organized transition to shelter, without leaving tools, equipment and machinery in working condition, and to help those who find it difficult to get to a safe place on their own;
- It is necessary to control whether all colleagues moved to the shelter in time, or all left the shelter after the threat had passed. This can be organized including by notifying colleagues in an online chat, or through phone calls between a predetermined circle of persons – a calling tree, etc.;



- All workers should study the Guide for Personal Preparedness in Case of Emergency developed by the Centre for Strategic Communication and Cybersecurity. The Guide is regularly updated on a website **Dovidka.info** and can also be downloaded on a smartphone as a chatbot.
- For the timely evacuation of workers, all workers should install an air alarm application on their smartphone ([Повітряна тривога](#) or similar) and strictly follow evacuation instructions in the event of a corresponding alert.
- Heads of facilities should ensure the operation of devices or software that duplicate/amplify the sound of an air alarm. This should be done in cases where, as a result of the peculiarities of work at a construction site or in separate premises it is impossible or difficult to hear the sound alarms in the locality;

## Shelter



A shelter<sup>8</sup> is a structure for an extended stay of people in case of emergency. The availability of an appropriate shelter is most important in the case of critical infrastructure that may become a target for airstrikes, construction bases and other places where there is a workforce and accumulation of equipment.

Where feasible, Heads of facilities should put in place shelter on site (by building a new structure or repurposing existing structures), taking into account guidance on technical requirements from local representative of the State Emergency Service of Ukraine and respective legislation.

- Shelters used by construction workers, personnel, and other people should be provided with everything necessary for the isolated stay of people for several days, namely:

- Potable water;
- Long-term storage food;
- First aid kit with what is necessary for first aid;
- Blankets, or warm clothes;
- Seat furniture;
- Self-contained lights (lanterns) and power supplies independent of centralized power supply.

If it is not feasible to put in place site-specific shelter, other simpler shelters can be used, such as basements and semi-basements, underground parking lots, and underpasses. Priority should be given to those with several exits (one of them outside the building) as these are the safest. It is important to recognize that not all structures are suitable as shelters; the choice of emergency shelters should be guided by their availability, suitability and recommendations of authorities.

## Traffic safety

When required, traffic routes for transportation of construction materials or equipment should be agreed with National Police and military administration. General guidance for safe traffic is provided in the Traffic Rules during War Time developed by the Academician Stashis Scientific Research Institute for the Study of Crime Problems.

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<sup>8</sup> [Article 32 of the Code of Civil Protection of Ukraine](#) provide general rules for using civil structures for sheltering population, technical details of such shelters are covered by the [Cabinet of Ministers Decree № 138 dated March 10<sup>th</sup>, 2017 'Some aspects of using protective structures of civil protection'](#).

## 2. Action plan in case of detection of unexploded shells or missiles – Explosive Remnants of War (ERW)

Explosive hazards inhibit freedom of movement, put civilian infrastructure at risk, and limit access to food, water, schools, hospitals, and shelters; ultimately, they jeopardize the resumption of activities and the safe return of displaced persons. The State Emergency Service of Ukraine (SESU) and Ministry of Internal Affairs estimate that around 30 percent of Ukraine’s territory might be affected by ERWs. The State Demining Service by SESU provides a map and application with information on potentially mined territories, as well as information on proper procedures and channels to report ERW finds.

- Personnel as well as all workers who are planned to be allowed to work in construction/field, should be instructed on an action plan in case of detection of explosive objects, in particular, unexploded artillery shells and/or missiles; If possible, it is worth organizing training from representatives of the territorial bodies of the State Emergency Service of Ukraine, the Ministry of Reintegration of Temporarily Occupied Territories, the Ministry of Defense and other relevant authorities.
- In case of detection of explosive objects, it is prohibited to:
  - Touch them (do not do this in any case);
  - Move, roll over from one place to another;
  - Collect and store, heat and hit;
  - Try to discharge and disassemble;
  - Make various items;
  - Use charges for making fire and lighting;
  - Bring indoors, bury in the ground, throw into a well or river.
- Having found explosive objects, it is necessary to firstly stop all activities on site/field, to evacuate all other workers/personnel at a minimum 50 m from the hazard area and position them behind available cover (vehicles, equipment, etc.), to take measures to identify them, fence and protect the found objects at the place of detection. Territorial authorities of the State Emergency Service and the Ministry of Internal Affairs should be informed immediately by calling '101' and '102'.
- If available, safely mark the approximate location with colored tape or cloth by placing it in a nearby location; DO NOT pound in stakes or otherwise disturb the soil; do not tie flagging directly to the item.
- Secure the area and keep personnel/workers out until response personnel arrive. At a minimum, secure the area within approximately 50 m around the suspect explosive item.
- If the construction contractor encounters suspected UXO, all excavation activities within 50 m will cease. No additional excavation will commence until a detailed assessment of the potential of encountering additional UXO is completed.





**Unexploded Ordnance (UXO):**

UXO are items used (fired, thrown, dropped) for their intended purpose but failed to function as designed - see examples:



**Discarded Military Munitions (DMM):**

DMM are munitions that were never fired from a weapons system or abandoned without proper disposal.





**The age or condition of a UXO does not decrease its effectiveness to kill**

### **3. Action plan in case of injury.**

Farm personnel and other personnel of agriculture facilities, as well as all workers who are planned to be allowed to work at the construction site or in the field, must be instructed in the provision of first aid. Such training (instruction) should include first aid for cases involving various types of injuries and other health problems (including the application of a tourniquet). Agriculture facilities and/or construction site should be equipped with first-aid kits with all appropriate first-aid equipment. Completeness of first-aid kits should be periodically checked, and their content should meet the requirements of the legislation of Ukraine.

All employees (staff) should know the location of first-aid kits, personal protective equipment and fire extinguishers.

### **4. List of contact numbers of emergency and rescue services and support services.**

In the event of an emergency, a crime or a threat of crime, it is important to seek help. Below are the corresponding contact numbers. Emergency phone numbers are as follows:



- 112 – Universal call number of all emergency services. By calling this number, the dispatcher will call the team of the required service.
- 101 – Fire service.
- 102 or 0 800 500 202 – Police (can be used to report war crimes, including crimes such as sexual exploitation and sexual harassment).
- 103 – Ambulance.
- 104 – Emergency service of gas network.
- 1547 – Government Hotline (can be used to report war crimes, including crimes such as sexual exploitation and sexual harassment).
- 0 800 501 482 – Ukrainian Security Service Hotline.

### **5. Recommendations of the Ministry of Health of Ukraine on the content of the first aid kit, preparedness for any emergency: natural, man-made or military.**

What should be in the emergency kit:

- Non-sterile gloves - 4 pairs
- Atraumatic scissors for cutting clothes or shoes
- Sterile and non-sterile gauze bandage of different sizes — 5 pcs.
- Elastic bandage of different sizes — 2 pcs.
- Hydrogel anti-burn dressing/bandage (at least 10x10 cm) — 2 pcs.
- Thermal blanket on polyethylene base
- Thermometer (non-mercury and in a protective case)
- Individual sterile dressing bandage with elastic first aid compression component with protective moisture-resistant cover — 2 pcs.
- Film (valve) for artificial lung ventilation — 2 pcs.
- Hypothermic package
- Eye patch (shield)
- Bactericidal patch of various sizes — 25 pcs.
- Plaster on a non-woven basis (3-5 m long, 3-5 cm wide)
- Sterile gauze napkins — 10 pcs.
- Medical bandaging handkerchief for immobilization of limbs — 2 pcs.
- Hormonal ointment
- Antiseptic (1 water-based, 1 alcohol-based)
- Analgesic/antipyretic (1 pack)
- Enterosorbent
- Water purification tablets (1 package)
- Reinforced tape
- Marker for applying water-resistant information
- Hormonal ointment is needed for insect bites or contact with poisonous plants, accompanied by itching.
- For treatment of wounds, use antiseptics containing chlorhexidine bigluconate, povidone-iodine aqueous solution, octenidine dihydrochloride. Do not use alcohol solutions of iodine or diamond green, hydrogen peroxide.
- Use alcohol antiseptics to disinfect hands.
- To reduce body temperature and relieve pain, use ibuprofen/paracetamol according to the doctor's instructions or recommendations.
- For children, provide analgesics/antipyretics in suspension/suppositories.
- Use enterosorbents (activated carbon, silicon dioxide) in case of food poisoning, diarrhea.
- Water purification tablets are required to disinfect individual water supplies from unverified sources. It is worth using preparations with the active substance - sodium dichloroisocyanurate.
- Put in the first-aid kit a stock of medicines that you take on a regular basis (according to your own needs and on the recommendation of your doctor).
- For people with arterial hypertension and/or diabetes, it is recommended to take a tonometer and a glucometer in the first-aid kit with a supply of test strips and batteries, if necessary.

Recommendations for what can additionally be taken to the first-aid kit by people with the appropriate skills and abilities.

- Chemical means for stopping bleeding (blood-stopping tampon bandage with hemostatic agent)
- Gel-based occlusive thoracic bandage (sticker) with valve (or without valve)
- Mechanical means to stop bleeding, CAT type
- Flexible immobilization splint 10-11 cm wide, 90 cm long
- Nasopharyngeal airway with lubricant
- Decompression needle

In any emergency, you should keep calm. The key to your peace of mind is preparedness for unforeseen events. Complete first aid kit and ability to use it is one of the links of such preparedness.