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TO: President Suma Chakrabarti
European Bank for Reconstruction and Development (EBRD)

CC: Mr Riccardo Puliti, Managing Director, Head of Energy and National Resources, EBRD
Mr Vince Novak, Director, Nuclear Safety Department, EBRD
Mr Alistair Clark, Corporate Director, Environment and Sustainability Department, EBRD

Dear President Chakrabarti,

We are writing to draw the EBRD's attention to the fact that while the Ukrainian nuclear power plant safety upgrade loan is deemed to be effective¹, the Ukrainian government has currently taken steps that contravene Ukraine's obligations under the respective guarantee agreements with the EBRD. Of particular concern is the independence of the state nuclear regulator which is now being further and seriously undermined and we are kindly asking you to address the following concerns in your communication with the Ukrainian government.

As of January 2015 the state nuclear regulator (SNRIU) **is prohibited to carry out any inspections of their licensees** (including at nuclear power plants) on their own initiative. This prohibition was imposed by the Law of Ukraine "On amendment and termination of some laws of Ukraine" from 28 December 2014 (part 8, chapter III "Final provisions") according to which any inspections by controlling state bodies (with exception of tax office) can be carried out only by direct order of the Cabinet of Ministers or by request from the entity itself. This will be in place until June 2015 but chances are that such moratorium will be prolonged further. Similar moratorium was in place last year from August to December (imposed by the Law of Ukraine "On amending of the Law of Ukraine "On state budget of Ukraine for 2014", article 31) however it covered only planned inspections. The current moratorium does not allow the SNRIU to carry out also unscheduled inspections and inspections in response to signals which dangerously limits the ability of the SNRIU to control nuclear and radiation safety and security in the country. This is especially in view of the fact that the SNRIU is also **responsible for controlling the physical presence of nuclear and radioactive materials and the state of physical defense** of all the entities that use radioactive materials. The number of the SNRIU's inspections has dropped by almost half in 2014 (to 499 comparing to 859 in 2013 and 863 in 2012). According to the SNRIU's presentation from 14 February this trend demonstrates the presence of potentially unidentified violations, which, in case of further limitations of inspecting activities, may lead to accidents with radioactivity release.

We urge the EBRD to use its leverage on Ukrainian government to lift those limitations on the SNRIU's activity as soon as possible and to further strengthen the SNRIU's independence and its ability to responsibly provide for nuclear safety and non-proliferation of radioactive materials in the

¹ EBRD letter from 27 January 2015 confirming loan effectiveness;

country. This should be of crucial importance taking into account the military conflict in Donbas and potentially immense hazard from unauthorized use of radioactive materials.

We believe such draw-back on regulator's independence is against the EBRD loan conditions as stipulated in respective guarantee agreement with Ukraine, thus the loan should be suspended until the government takes measures to restore and further strengthen nuclear regulatory framework in the country.

Principal solution would be to amend Part 8, chapter III of the Law of Ukraine "On amendment and termination of some laws of Ukraine" by adding the State Nuclear Regulatory Inspection to the exception list of bodies allowed to carry out inspections as normally.

As a temporary solution, in January 2015 the SNRIU has developed a draft Cabinet of Ministers decree "On allowing inspections of the state of nuclear security of operations with high level of risk in period from February to June 2015". The draft is still awaiting approvals by Ministry of economic development and Ministry of Finance.

Thank you in advance for considering our concerns raised above and for any steps taken to help addressing such dangerous development in my country.

Sincerely,

Yury Urbansky,
Executive Director, National Ecological Center of Ukraine (NECU)