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POLICY ANALYSIS

# European Standardization in Ukraine

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This analysis has been conducted to be included in the comparative study *"EU standards velocity within EaP countries. Evaluation of the progress and challenges in Moldova, Ukraine, and Georgia"*.

This paper should be treated as a final draft that will be included in the comparative study **“EU standards velocity within EaP countries. Evaluation of progress and challenges in Moldova, Ukraine and Georgia”** prepared within the project “Enhancing the role of Civil Society and SME from Eastern Partnership Countries in the implementation of European standards”.

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Key areas of support are democracy and human rights, economic integration, environment and energy, contacts between people, social and labour policies.

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# European Standardization in Ukraine

## 1. INTRODUCTION

This paper aims at analyses of the advantages and disadvantages of the reforms in the field of standardization, emerging challenges and opportunities in this sphere, outlines the basic trends and dynamics. Also, it focuses on the transition from Soviet to European/International standards and analyses the procedures related to it. The paper also tackles the signing of the Association Agreement between the EU and Ukraine and its impact on the implementation of European standards in Ukraine. Besides, the paper highlights the milestones in the transformation of the national standardization framework in Ukraine and reviews the level of engagement and partnership among other stakeholders, such as the civil society, public sector, academia, SMEs, etc. Finally, the paper outlines major findings and offers specific recommendations for implementation.

The authors express their gratitude to SE “UkrNDNC” (Ukrainian Agency for Standardization) and its Director General Hanna Lisina for openness, assistance and support in drafting the paper.

## 2. METHODOLOGY

The paper was developed in close cooperation with the representatives of SE “UkrNDNC” (Ukrainian Agency for Standardization) – national standardization body and Ministry of Economic Development and Trade. In order to carry out the research, experts have applied a qualitative method of analysis, in-depth semi-structured interviews, and desk analyses. Existing literature alongside with the legislative framework related to the standardization process were analyzed. Additional interviews with the representatives of think tanks working in the respective field were conducted for gaining additional information about the existing developments.

SGGG respected the methodological directions submitted by the lead partner – Center for Innovation and Policies in Moldova.

## 3. NATIONAL STANDARDIZATION FRAMEWORK IN MOLDOVA, UKRAINE AND GEORGIA

### 3.1 Institutional framework, legal and methodological framework Ukraine

The institutional framework of the national mechanism of standardization in Ukraine is shaped by the following founding structural, legal and administrative (governmental) factors:

- **The Law of Ukraine “On Standardization”** (date by 05.06.2014 #1315-VII, which came into force on 03.01.2015 p.)<sup>1</sup>;
- government of Ukraine represented by **Ministry of Economic Development and Trade of Ukraine**<sup>2</sup>;
- national standardization body which is **Ukrainian Agency of Standardization** – SE “UkrNDNC”<sup>3</sup>.

<sup>1</sup> <http://zakon2.rada.gov.ua/laws/show/1315-18>

<sup>2</sup> <http://www.me.gov.ua/?lang=uk-UA>

<sup>3</sup> <http://uas.org.ua/ua/> (which according to the Decree of the Cabinet of Minister of Ukraine dated by 26.11.2014 #1163 performs the functions of a national standardization body)

All the activities in the field of standardization in Ukraine are being taken within the regulations prescribed by the aforementioned **Law**. Although it is a framework document by its nature; it outlines only the main aspects of both expertise and procedures. The law foresees legal and organizational founding stones of standardization in Ukraine, points at the procedures of solving the key issues of state policy in the field of standardization, envisages that activities of the responsible executors, defines the objects of standardization and the aspects of property, regulates interaction of the interested parties and their relations regarding the activities in the field of standardization and of the implementation of the results of the mentioned activities. It is noteworthy that the Law does not take into consideration sanitary activities related to safety of food, veterinary and sanitary and phytosanitary activities, construction norms, medicines, standards of medical care, standards of accounting, assessment of property, education and other social standards foreseen by the legislation of Ukraine. It is noteworthy that the legislation of Ukraine in the field of standardization includes the mentioned Law, relevant international treaties where Ukraine is a party and other normative and legal acts that are regulating the relations in the field of standardization.

**The Ministry** of economic development and trade of Ukraine (further – the Ministry), being a central body of the executive power, among its other activities, ensures shaping of state policy in the field of standardization <sup>4</sup>. In particular, there are the following activities that belong to the Ministry:

- 1) ensuring normative and legal regulations in the field of standardization;
- 2) defining priority directions of development in the field of standardization;
- 3) informing and providing explanations regarding the implementation of state policy in the field of standardization <sup>5</sup>;
- 4) generalization of practices of applying legislation in the field of standardization <sup>6</sup>, elaboration of proposals on its improvement and initiating in the respective order the projects of the legal acts, acts of the President of Ukraine and Cabinet of Ministers of Ukraine;
- 5) coordination of Programs of activities on national standardization.

Also the Ministry is in charge of political actualization and strategic planning related to the challenges in the field of state's standardization policy, defining current and potential problems and elaboration of the proposals related to theoretical and practical tasks on counteracting them.

Most of the key tasks in organizational and methodological tasks in terms of regulating the relations and interactions in the field of standardization of Ukraine (according to the Law) belong to the competence of National Standardization Body, which is (according to the Decree of the Cabinet of Ministers of Ukraine dated by 26.11.2014, #1163-r) Ukrainian **Agency** of Standardization (further – Agency), which is currently being reorganized on the basis of State Enterprise “UkrNDNC” (which was created by the Decree of the Cabinet of Ministers of Ukraine dated by 21.08.2003, #1337; currently it is being rebranded). According

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<sup>4</sup> <http://www.me.gov.ua/Tags/DocumentsByTag?lang=uk-UA&id=38beb036-588e-4f53-8676-37ada2005572&tag=Standartizatsiia>

<sup>5</sup> <http://www.me.gov.ua/Documents/List?lang=uk-UA&tag=ZagalnaInformatsiiaSchodoSferiTekhnichnogoReguliuвання>

<sup>6</sup> [https://www.google.com.ua/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=0ahUKEwiW9r7M2cDVAhXHDxoKHVuHAtYQFghAMAc&url=http%3A%2F%2Fcci.dp.ua%2Ftl\\_files%2Fdata%2Fcontent%2Fmaterials%2520library%2F10%2520Ijutogo%25202016r%2FSistema%2520texnichnogo%2520reguljuvannja%2520Ukrajini.ppt&usg=AFQjCNGl6qQq-jG9kWFUtfj7cz1xc1M34A](https://www.google.com.ua/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=0ahUKEwiW9r7M2cDVAhXHDxoKHVuHAtYQFghAMAc&url=http%3A%2F%2Fcci.dp.ua%2Ftl_files%2Fdata%2Fcontent%2Fmaterials%2520library%2F10%2520Ijutogo%25202016r%2FSistema%2520texnichnogo%2520reguljuvannja%2520Ukrajini.ppt&usg=AFQjCNGl6qQq-jG9kWFUtfj7cz1xc1M34A)

to the decision of the Cabinet of Ministers of Ukraine, the Agency is subordinated to the above mentioned Ministry.

The key activities of the Agency are <sup>7</sup>:

- ensuring functioning and development of the national system of standardization; technical inspection of projects of standards, harmonization of national standards with the international and European standards, coordination of national technical committees of standardization and consultations on marking production, certification of products, services and systems of management;
- assessment of the products compliance with the technical regulations;
- training and advanced training of specialists in the fields of standardization, certification, metrology and systems of management, training of scientific staff of highest qualification;
- managing **the National Fund of normative documents**<sup>8</sup>; ensuring preservation, audit, actualization of normative documents and providing access to them to the users;
- preparing and issuing normative documents, manuals, informational catalogues of standards, etc.;
- issuing the professional journal “Standardization, certification, quality”.

The administrative competences and tasks (functions) of the Agency are:

- 1) organization and coordination of the activities related to the methodology of elaboration, adaptation, inspecting, reviewing, cancelling and renewing the validity of national standards, codes of the established practice and amendments to them according to the abovementioned Law;
- 2) elaboration (on Ministry’s approval) of national standards and amendments to them in terms of:
  - the procedures of elaboration, adaptation, inspecting, reviewing, cancellation and renewing the validity of the existing standards, codes of the established practices and amendments to them;
  - methodology of criteria, forms and procedures of consideration of requests related to conducting activities on national standardization;
  - procedures of launching, conducting activities and shutting down the activities of Technical committees (more information on them see below), coordination of their activities;
- 3) taking the measures on harmonization of national standards and codes of the established practice;
- 4) participation in elaboration of international and regional standards and code of the established practice, which are elaborated by the respective international and regional organization of standardization, where the Agency holds the membership or with which it cooperates;
- 5) ensuring adaptation of the national standards and the codes of the established practice in accordance with the modern achievements of science and technology;
- 6) ensuring and supporting of cooperation in the field of standardization by the producers, suppliers, consumers of production and the respective state bodies;
- 7) invigorating subjects of SME to participate in elaboration of national standards and codes of the established practice;
- 8) preparation and approval of the **Programs of activities in national standardization** (which is elaborated in coordination with a Steering Council of the Agency (National Standardization Body) and approved by the Ministry), and also elaboration of the annual reports on its activities.

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<sup>7</sup> <http://uas.org.ua/ua/zagalni-vidomosti-pro-dp-ukrmdnts/>

<sup>8</sup> <http://uas.org.ua/ua/natsionalniy-fond-normativnih-dokumentiv/polozhennya-pro-natsionalniy-fond-normativnih-dokumentiv/>

Except for the mentioned Law (which provides legal basis) and annual Programs of activities <sup>9</sup> (as a content basis), the Agency in its activities is methodologically guided by the key standards:

- DSTU 1.1:2015 “National standardization. Standardization and related activities”;
- DSTU 1.2:2015 “National standardization. Rules of conducting activities on national standardization”;
- DSTU 1.5:2015 “National standardization. Rules of elaboration, outlining and designing of national normative documents”;
- DSTU 1.7:2015 “National standardization. Rules and methods of adopting of international and regional normative documents”;
- DSTU 1.8:2015 “National standardization. Rules of elaborating programs of activities on national standardization”;
- DSTU 1.13:2015 “National standardization. Rules of providing notifications to trade partners of Ukraine”.

In order to simplify and improve different aspects of the Agency’s activities the amendments to the key standards are currently being elaborated. An important body in the area of standardization in Ukraine is **Steering council**<sup>10</sup>, which is acting under the Agency’s umbrella. Steering council of the Agency is a collegial advisory and supervisory body and is formed on a parity basis from representatives of:

- Ministry, other central bodies of the executive power and state authorities;
- scientific institutions, teaching institutions, scientific, technical and engineering communities (unions);
- civic unions of business entities (including SME), organizations of employers and their assemblies;
- civil organizations of consumers (unions of consumers);
- other civil organizations and professional unions.

Therefore it is the Steering council which is responsible for overview of Agency’s compliance with inviolability of procedures and in case of necessity provision of recommendations regarding correction of its decisions. The Statute (founding document) on the Steering council and its composition<sup>11</sup> are approved by the Ministry. It is worth to mention that the members of the Steering council and working voluntarily. The Steering council does not have the status of a legal entity. Organizational provision of the activities of the Steering council is assured by the Agency:

- 1) elaboration of the proposals related to:
  - priorities of state policy in the field of standardization;
  - ensuring control over the Agency’s in terms of its ability to comply with the procedures in the field of standardization;
  - procedures in the field of standardization;
  - joining international and regional organizations of standardization, conclusion of treaties on cooperation and conducting the activities in the field of standardization with the national standardization bodies of other states;
- 2) approval of projects of:
  - decisions on launching and shutting down the activities of technical committees on standardization, defining spheres of their competences;
  - programs of activities on national standardization;
  - annual report on activities of national standardization body;
- 3) monitoring and assessment of activities of Technical committees on standardization;

<sup>9</sup> <http://uas.org.ua/ua/plans-and-reports/>

<sup>10</sup> <http://zakon2.rada.gov.ua/laws/show/z0186-15>

<sup>11</sup> <http://uas.org.ua/ua/kerivna-rada-natsionalnogo-organu-standartizatsiyi/sklad-kerivnoyi-radi-natsionalnogo-organu-standartizatsiyi/>



4) overview over the Agency in terms of its activities within its competences.

An important body within the national mechanism of standardization is **Appeal Commission**<sup>12</sup> (further – the Commission), which is acting under the Ministry’s umbrella and considers disputes concerning violations of the respective procedures by National standardization body. Any interested party has a right to address the Commission, if assumes that Agency by acting or non-acting has violated the procedures in the field of standardization. The content of the national standard or Code of the established practices cannot be a subject of appeal. At the same time, filing of the appeal does not limit the applicant's right to apply to the court. In case the Commission acknowledges the violations by the Agency it takes the decision on supporting the appeal and recommends the Agency to eliminate the detected violations. The Commission cannot be composed of Agency’s representatives. Also the member of the Commission cannot participate in the process of considering the appeal in case he or she is subordinated or in another way dependant on the persons who represent the sides in the process of appeal consideration or in case of other circumstances that put into question the impartiality of such a member. The Commission (alongside with the Agency) annually reports to the Steering Council. The Statute (founding document) on Commission and its composition is approved by the Ministry. The Commission does not have the status of the legal entity. Organizational provision of the activities of the Steering council is assured dominantly by the Ministry.

The main formats/bodies for facilitating methodological and expert activities in the field of standardization are **Technical committees on standardization**<sup>13</sup> (further – the Committees), which are collegial bodies under the Agency’s umbrella. The Committees are the subjects of standardization alongside with the Agency. The Agency facilitates their activities. Each technical committee on standardization is a differentiated form of interaction and cooperation of the interested legal entities and physical persons aimed at organization and implementation of the activities in the area of international, regional and national standardization in the defined fields. In terms of actualization and elaboration of standards the Committees can be described as the ‘engines’ of the activities. In their activities the Committees engage the relevant and competent representatives of the executive authorities, other state institutions, self-governance, enterprises and their civil assemblies, organizations of employers, scientific and teaching institutions, scientific, technical and engineering communities (unions), consumers’ civil organizations (unions of consumers), other civil assemblies, professional unions, leading scholars and experts. An important organizational form of shaping the Committees is the principle of representation of all interested parties; at the same time membership is voluntary. The Committees do not have a status of legal entities. Statutes (founding documents) of the respective Committees are approved by the Agency. The competence of the Technical committees includes:

- 1) participation in the activities of the respective technical committees on standardization of international and regional standardization organizations;
- 2) elaboration and ensuring coordination on national standards, codes of the established practices and amendments to them;
- 3) participation in drafting programs of activities on national standardization;
- 4) inspecting and reviewing of national standards and codes of the established practices, elaborated by them;
- 5) assuring coordination and providing the proposals on cancellation and renewing validity of national standards, codes of the established practice and amendments to them.

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<sup>12</sup> <http://zakon2.rada.gov.ua/laws/show/z0208-15>

<sup>13</sup> <http://uas.org.ua/ua/services/standartizatsiya/tehnichni-komiteti-ukrayini/>

In some cases when launching of the Committees is senseless or they are not launched due to the different reasons the absence of a separate (profile) Committee, which covers certain system of objects of standardization, the Agency launches a **Working group** (or groups), which aims to substitute missing Committee. The Working groups also include the representatives of the interested parties who elaborate the respective standards and codes of the established practices for the respective objects of standardization.

The particular features of the Committees are the following: (1) they cannot be profit-oriented; (2) their organizational activities are facilitated by separate **Secretariats**. The functions of Secretariat of Committee is put by the Agency on organization which is a legal entity, resident of Ukraine and expressed its intention and proved its capacity to perform the functions of Secretariat. At the same time if such organization is missing the Agency itself can perform the function of Secretariat of certain Committee.

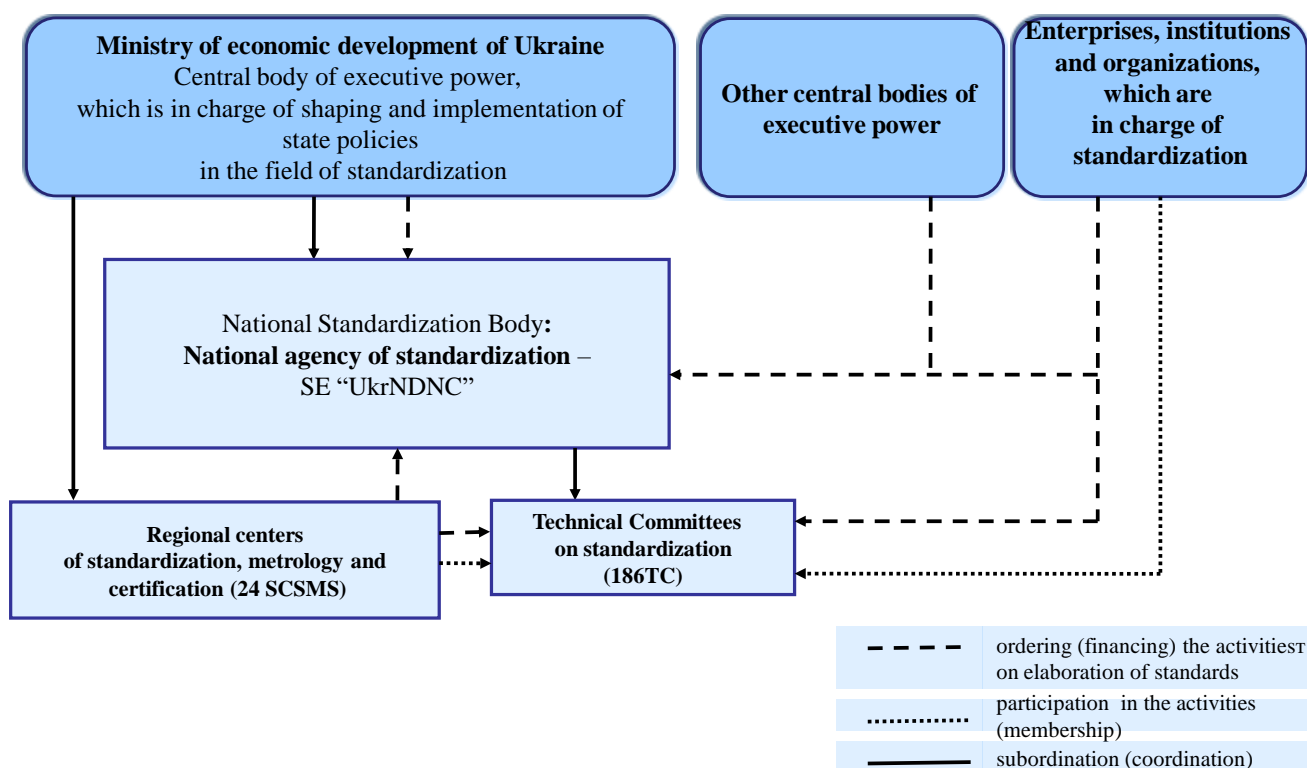
Generalizing the **system of standardization** in Ukraine looks as the following:



МІНІСТЕРСТВО ЕКОНОМІЧНОГО РОЗВИТКУ  
І ТОРГІВЛІ УКРАЇНИ

*System of technical regulation. Standardization*

## STANDARDIZATION SYSTEM



### 3.2 Evolution of the national fund of standards

It was the adoption of a new edition of the Law of Ukraine “On Standardization” (dated by 05.06.2014, #1315-VII) that became crucial for the current development of system of standardization in Ukraine in general. By this law the obligation to apply standards and other normative documents in the field of



standardization, registering of technical specifications, necessity to coordinate the drafts of the national standards between the institutions were cancelled. The implementation of the Law provides opportunities for improvement of legal and organizational basics of national standardization, creation of national system of standardization, which corresponds with the modern demands and trends and assures coordinated national policy in this field; correlates national system with the European model; creates organizational forms of activities in the field of standardization that will correspond to international and European practices; keeping the basic principles of standardization.

In Ukraine harmonization of national standards with the international and European standards is ongoing process. Mostly it relates to those standards voluntary application of which is a proof that the products are matching with the demands of technical regulations similar to the respective directives of New and Global approaches of the European Union<sup>14</sup>. The validity of the interstate GOSTs adopted before 1992 was cancelled by the aforementioned Law. The positive outcome of the Law's adaptation was also cancellation of the necessity to fill and maintain card indexing of the funds: ISO, EN, IEC and GOST R, and also cancellation of the necessity to maintain numerated paper card indexes of national normative documents. The latter to outcomes significantly optimized the procedures of working with the standardization documentation and became possible due to applying IT-technologies.

Therefore, in the activities of the national standardization fund of Ukraine – **National fund of normative documents**<sup>15</sup> (further – the NFND) – in the last years there have been a significant organizational, methodological and technical progress. By now the NFND includes more than 15 thousand national standards, out of which more than 11 thousand are harmonized with the international and European ones. NFND is maintained by Ukrainian agency of standardization (SE «UkrNDNC»; further – Agency).

According to the above mentioned Law some types of activities in the field of standardization have been assigned to the category of services. Consequently, the possibility for shaping of standardization segment of market of administrative services in Ukraine has been created. Grounding on that there is a part of standardization documentation that is disseminated by the NFND on the contract (paid) basis and it provides an opportunity for additional filling of budget basket to insure functioning of the NFND and its improvement.

A significant achievement in modernization of NFND is shifting from hard copies to electronic copies of the normative documents (further – the ND). In case of necessity the NFND is disseminating the official copies of the ND both in hard copies and in electronic copies. In order to get them you have to fill the respective application form (for physical persons and legal entities). For buying the electronic copies of the ND a client can use the services of the Internet-shop<sup>16</sup>, which is located at the Agency's portal. The same is applicable for the international standards. In particular, starting from October 2015 the NFND is disseminating the official copies of international standards ISO and the pricing is recommended in accordance with the Policy on dissemination of ISO publications and copyright ISO – ISO POCOSA 2012<sup>17</sup>.

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<sup>14</sup> <http://cons.parus.ua/map/doc/081XN93252/Pro-zatverdzhennya-metodichnikh-rekomendatsii--schodo-vprovadzhennya-polozhen-direktiv-Novogo-ta-Globalnogo--pidkhodu-levropeiskogo-Soyuzu-yak-tekhnikh-reglamentiv.html>

<sup>15</sup> <http://uas.org.ua/ua/natsionalniy-fond-normativnih-dokumentiv/polozhennya-pro-natsionalniy-fond-normativnih-dokumentiv/>

<sup>16</sup> <http://shop.uas.org.ua/>

<sup>17</sup> [www.iso.org](http://www.iso.org)

Every issued standard is downloaded to full-text database of normative documents (further – the DBND). It also includes the standards that do not have to be issued (adopted by method of confirmation). The DBND is constantly maintained and filled with the new documents, adopted changes or amendments to the acting standards, the status of the standards is being updated (acting, cancelled). In particular, in accordance with the aforementioned Law the domain of national standards in the field of construction was subordinated to the Agency. In this regard the standards related to construction have been passed to the NFND. All of them are published in the catalogue and being downloaded to the DBND. It is planned that in 2017 the DBND will be optimized by updating hardware and software. Financing of these activities will come from state budget.

When requested in hard copies, the normative documents are printed out from full-text database, which provides the opportunity to fulfill the request much faster and to improve the quality of the normative documents (further the copies were printed by mean of copying them on copy-machine). A step forward was maintaining a catalogue of the ND in electronic database format (which is an administrative model of the Internet-shop). Only the Agency's employees have full access to the catalogue, update and edit it. All the users can only look through the data which is acceptable from the perspective of data protection. Besides, the same level of access is possessed by the employees of Department of technical regulations of Ministry of economic development and trade of Ukraine that coordinates the activities of the Agency including NFND. Alongside with that the catalogue in ".xls" format (can be downloaded from DBND) is placed at the Agency's website for free and is regularly updated. The catalogue includes full information on national standards including those cancelled. That fact significantly accelerates information services for the users.

It is also worth mentioning that Internet-shop which is launched in its full capacities serves not only for dissemination of the official electronic versions of the standards but also serves as an important search engine, which provides an opportunity to search by 6 criteria; separately there is a "Catalogue of normative documents", where the ND are separated into the respective groups by SC 004:2008. At the Internet shop, there is available data in each of the ND.

By now the Agency has signed the treaties on cooperation and dissemination of standards with the German Institute of Standards (DIN), American Society for Testing and Materials (ASTM). Currently the rules of commercial dissemination of these standards are being analyzed and the respective procedures are being elaborated. The beginning of selling DIN and ASTM standards is planned for the autumn this year. Also, it is planned to sign the treaties on dissemination of standards with the International Electrotechnical Commission IEC and European Telecommunication Standards Institute, which assists in implementing the achievements of technical progress and development of the technologies, provides an opportunity to coordinate national technical policy in the field of standardization with the technical policies of the Ukraine's trade partners.

### **3.3 International contacts in the field of standardization**

One of the key dimensions of international cooperation in the field of standardization is represented by the activities of the Technical Committees on standardization (further – TC). Since 1993 Ukraine is a full-fledged member of two organizations of standardization: International Organization on Standardization (ISO) and International Electrotechnical Commission (IEC). Ukrainian Agency of Standardization (SE "UkrNDNC"; further – Agency), which performs the functions of National Standardization Body of Ukraine (further – NSB), in 2015 confirmed its membership in these international organizations on standardization.

At the beginning of 2017 83 national TC cooperated in 319 technical units of **ISO** with a status of P- and O- members. Out of them: 31 TC are working in 145 units of ISO/TC/SC with a status of active member, and 70 TC are working in 174 units ISO/TC/SC with a status of passive member as observers. Ukrainian TC participate in elaboration of draft standards, voting for projects of ISO standards at the different levels of project elaboration, submit for consideration remarks of different type, complete the procedures of electronic voting at ISO Balloting Portal. The number of votes can reach up to 2 thousand per year. Ukraine since 2003 administers the secretariat of international committee ISO/TC 218 “Timber”.

Also at the beginning of this year 24 Ukrainian TC were working at 103 structural units (committees and subcommittees) of International Electrotechnical Committee **IEC**. 13 TC – are working as active members at 31 structural units of IEC/TC/SC and as passive members in 29 IEC/TC/SC as observers. 11 TC – passive, observers are working at 49 structural units of IEC/TC/SC.

Ukraine is a member of European Committee for Standardization **CEN** since 1997 and in European Committee for Electrotechnical Standardization **CENELEC** since 2001. Ukraine had different statuses within these organizations, and in 2017 it gained status of organization-companion on standardization. Such status is foreseen for the countries that are candidate states or potential candidate states for the EU accession. Except for Ukraine such status has been gained by Moldova and Georgia. The respective treaties have been signed on June 2, 2017. 43 Ukrainian TC get technical materials from 324 structural units of **CEN** and 23 – from 77 structural units of **CENELEC**. In order to fulfill its membership obligations in the European organizations for standardization CEN, CENELEC and increasing the efficiency of activities in the field of European standardization the information on adopted in Ukraine harmonized standards is uploaded into databases of CEN and CENELEC. In 2016 the information on 1392 CEN and CENELEC standards was uploaded, in 2017 – on 660. The total number of uploaded document reaches 3 935 – that’s information on European standards adopted by Ukraine by now.

Ukraine’s membership in ISO, IEC, CEN CENELEC provides Ukrainian TC with an opportunity to get projects of standards, just published standards and other technical documents promptly and for free, to get updated information on international and regional standardization and gives a chance to participate in the meetings of international and European technical committees on standardization. For example, the representatives of TC 122 “Analysis of gases, liquid and solid substances” participated in the meetings of the international technical committee ISO/TC 193 “Natural gas” (Pathos, Cyprus (27.06-01.07.2016); Washington, US (27-30.06.2017). The representatives of TC 117 “Rocket and rocket-space equipment” participated at the meeting of the international technical committee ISO/TC 37 “Terminology” (Copenhagen, Denmark (18-20.09.2016). The representatives of the Academy of Construction of Ukraine participated in the meeting of international technical committee ISO/TC 71 “Concrete, reinforced concrete and pre-stressed concrete” (Cartagena, Colombia (19-22.11.2016).

The Agency (currently SE «UkrNDNC») represents Ukraine in Interregional standardization association (Irsa-MAC-BASB). **MAC** was created in 1991 in order to develop regional cooperation in the field of standardization, assessment of compliance and accreditation. Its goals are elimination of technical barriers to trade, enhancing exchange of goods and services among member countries, strengthening standardization and infrastructure of quality of member states. From the perspective of trade relations and development of trade Ukraine’s participation in MAC is alongside with the participation in purely European standardization organization is priority: national standardization and accreditation bodies of Azerbaijan, Belarus, Georgia, Moldova, Kazakhstan, Kirghizstan, Tajikistan, Turkmenistan, Mongolia,

Turkey and Uzbekistan are members of MAC. Ukraine has applied for membership and the application was approved at 26<sup>th</sup> Assembly General of MAC (April 18, 2017, Chisinau, Moldova).

Ukraine is also a member of Interstate council on standardization, metrology and certification (**ISC**). Ukraine is represented in ISC not by the Agency but by the Ministry of economic development and trade. The Agency (currently SE «UkrNDNC»), as a national standardization body, has the right on its behalf to send information to the Bureau of standards of ISC regarding: additional joining of interstate standards by Ukraine; drafted lists of projects of interstate standards for their further adoption by ISC; suggesting amendments to interstate standards and performance of works according to DSTU GOST 1.2:2016.

In the last years Ukraine has signed a number of international agreements on cooperation in the field of standardization. The treaties on cooperation provide opportunities to work in such important directions as studies, training, exchange of experience, dissemination of standards. Among the mentioned treaties there are the following:

- Treaty on cooperation in the field of standardization with the Lithuanian standardization bureau (**LST**) – October 9, 2015
- Treaty on cooperation in the field of standardization with the Polish committee of standardization (**PKN**) – March 15, 2016
- Treaty on cooperation in the field of standardization with the Institute of standardization of Moldova (**ISM**) – June 2, 2017
- Memorandum on mutual understanding and Annex A on dissemination of standards with the American Society for Testing Materials (**ASTM**) – April 27, 2017
- Memorandum on mutual understanding and agreement on commercial dissemination of standards with the German institute of standards (**DIN**) – June 14, 2017.

Ukrainian agency for standardization pays significant attention to networking and training. There were following events with the participation of international experts in which the Agency's experts participated: seminar with the participation of experts of Polish institute of standardization PKN (January 2016); seminar with the participation of experts of Turkish institute of standards **TSE** (April 2016 p.); seminar with the participation of experts of Lithuanian standardization bureau **LSD** (September 2016). Also the Agency's experts participated at the Regional studying course regarding the implementation of Technical regulation 1025 on European standardization (Moldova, **National Institute of Standardization of Moldova**, July 2016) and Seminar on issues of standardization and exchange of experience (Lithuania, **Lithuanian standardization bureau**, October 2016).

## 4. EUROPEAN ASPIRATIONS OF UKRAINE

### 4.1 European aspirations of Ukraine

On September 16, 2014, the Verkhovna Rada of Ukraine and the European Parliament simultaneously ratified the **Association Agreement between Ukraine and the European Union**<sup>18</sup>, which envisaged the establishment of number of political institutions aimed at development of cooperation and partnership as well as establishment of deep and comprehensive free trade area (DCFTA). The parties confirmed their rights and obligations foreseen by the World Trade Organization regulations (WTO) on technical trade barriers (TTB), and also have undertaken the obligation to enhance technical cooperation in the field of

<sup>18</sup> [http://zakon2.rada.gov.ua/laws/show/984\\_011](http://zakon2.rada.gov.ua/laws/show/984_011)

normative and legal issues, enhance relations with the respective organizations, which are in charge of the issues of metrology, standardization, testing, market oversight, certification and accreditation. The Agreement foresees participation of Ukraine in the activities of the respective international organizations, support in development of the efficient infrastructure of systems of standardization, metrology, accreditation, assessment of compliance and market oversight.

According to the Decree of the Cabinet of Ministers of Ukraine (Cabinet) dated by September 17, 2014 #847-p<sup>19</sup> Implementation Action Plan of this Agreement for **2014-2017**<sup>20</sup> has been implemented.

Also Ukraine committed to implement European standards as national gradually alongside with cancelling national standards that violate the EU's standards. There tasks for Ukraine are foreseen by:

- Article 56 of Annex III of Association Agreement (which explicitly says that it is necessary to implement European standards as national standards, in particular harmonized European standards, voluntary implementation of which will correspond with the legislative demands);
- Articles 85 and 124;
- Annex XVII-3 (which refers to harmonization of standards necessary for ensuring exchange of e-documents with the electronic signature between Ukraine and the EU member states (with the consideration of the respective Directive<sup>21</sup> of the European Parliament and Council dated by December 13, 1999 on electronic signatures which is applied in the EU) and electronic flow of documents);
- Article 355, Annex XXIX (which refers to the improvement of energy statistics aimed at harmonization with the European and international standards within the new component D “Support of cooperation in the field of statistics” of “INOGATE” Project aimed a harmonization of energy statistics of Ukraine with the European and international standards etc.).

Ukraine actively participates in the activities of the international and European organizations which are in charge of shaping and implementation of system of technical regulations and also takes the measures to fulfill the demands for gaining full-fledged membership in the European organizations of standardization. In this regard Ukraine in accordance with the Decree of the Cabinet of Ministers of Ukraine dated by August 19, 2015 #844-p adopted the **Strategy of development of technical regulation system until 2020**<sup>22</sup>.

Therefore, the political and normative impact of the Agreement on the process of European standards implementation and the development national standardization system is significant if not vital. The mentioned Strategy says that the necessity of further reformation of system of technical regulation to a great extent is invigorated by the combination of the following factors:

- elimination technical barriers to trade between the EU and Ukraine;
- commitments undertaken by Ukraine upon WTO accession;
- necessity to modernize the economics by increasing the number of investment and level of compatibility of national products at the world market.

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<sup>19</sup> With the amendments approved by the Decree of a Cabinet #1401-p dated by 30.12.2015 and № 217-p dated by 18.02.2016; Decree of the Cabinet #160 dated by 24.02.2016 and #950 dated by 14.12.2016; Decree of the Cabinet #92-p dated by 08.02.2017; Decree of the Cabinet #57 dated by 08.02.2017

<sup>20</sup> <http://zakon3.rada.gov.ua/laws/show/847-2014-%D1%80/print1452597195988612#n12>

<sup>21</sup> [http://zakon3.rada.gov.ua/laws/show/994\\_240](http://zakon3.rada.gov.ua/laws/show/994_240)

<sup>22</sup> <http://zakon3.rada.gov.ua/laws/show/844-2015-%D1%80>

Thus, the result of the implementation of European standards in Ukraine should be modernization of the economics and ensuring compatibility of national products by means of gradual integration of Ukraine into the EU market, elimination of technical barriers in trade between Ukraine and the EU and strengthening Ukraine's position at the world market which will be caused by recognition of the Ukrainian system of technical regulation at the European and international level. Among the key dimensions of the implementation of the aforementioned Strategy are clearly defined and are directly connected to the standardization activities:

- adaptation of the legislation of Ukraine in the field of technical regulation to the EU's legislation;
- adopting for the further implementation of the European standards as the national standards of Ukraine with simultaneous cancellation of the validity of GOST;
- ensuring of full compliance of the system of technical regulation of Ukraine to the EU demands;
- enhancing cooperation of the central governmental bodies, enterprises, institutions and organizations with the European and international organizations of standardization, metrology, accreditation, compliance assessment and state's market oversight.

The Agency's plan of activities for 2017 corresponds with the Strategy's provisions. Hanna Lisina, Director General of the Agency says that "[...] this year it is planned to harmonize over a thousand of standards and to fulfill the obligation on unpublished standards the number of which is reaching 1126. Also, it is planned to work on membership of Ukraine in European telecommunications standards institute (ETSI), harmonization of standards for military equipment in accordance with NATO standards, agreements on dissemination of international and regional standards – primarily standards of International electrotechnical commission, – European standards of CEN and CENELEC and German standards of DIN"<sup>23</sup>

Summarizing, the implementation of the Strategy's tasks will ensure high level of safety of Ukrainian production, increase its compatibility and will assist in innovational development, which consequently will provide access to the EU market for the Ukrainian producers on the same conditions with the producers from the EU member states. Also as the result of creation of supportive regulative and business environment with no extraordinary and duplicated demands, foreign investors will only have to deal with the regulations and demands applied in the EU.

## **4.2 Towards European standards: benefits and challenges**

In general, the study of these issues and consultations with experts in the field of standardization are bringing us to the following generalizations. Ukraine introduces and uses predominantly international (ISO) and European (EN) standards as national ones that are identical with international and European standards.

They differ from the national standards (DSTU), but they have a number of significant advantages both for the economy of the country and for the average consumer. New standards make it possible to produce a wider range of products which also have more predictable quality indicators. Ukrainian producers are able to participate in national and international tenders on the same terms as foreign

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<sup>23</sup> <http://uacrisis.org/ua/52057-natsionalnij-organ-standartizatsiyi>



manufacturers. Moreover, they are reducing energy costs and improving the environmental situation in the country.

However, the overwhelming majority of international and European standards apply to control methods. There are a few standards in regards to the product. And such standards are basically found on the level below the directives. That is, they are a presumption of compliance with the requirements of the EU Regulations and Directives. Therefore, in order to fully harmonize the international and European standards as national ones, Ukraine needs first of all to accelerate the process of harmonization of national legislation.

A significant challenge for Ukraine is the process of implementing the international and European standards not only at the level of their availability and access of customers to them, but also at the level of production of goods and the provision of services in accordance with these standards, as on the part of big business, as well the middle and small one. The organization of such a transition requires not only legislative, institutional, organizational or methodological support. There is a necessity for successful serious (that means intensive, extensive and long-term) educational and training activities, dissemination in the business environment of an understanding of the benefits and feasibility of such a transition from one culture of production and trade to another, which is characterized with the higher quality. This relation of different cultures conceals the mental essence of the challenge of the current technological, industrial and business modernization of Ukraine.

Specialists of the National Agency of Standardization of Ukraine (hereinafter - the Agency) and the representatives of the Ministry of Economic Development and Trade of Ukraine draw attention to the two another significantly problematic issues relevant to the implementation of European standards, which must be successfully resolved in one way or another. First and foremost, there are drawbacks in legislation which cause problems with the financing of the works upon harmonization of national standards. One of the main problems when drafting national normative documents (ND), harmonized with international and European ones, is the application of the norms of the current legislation on the use of budget funds, in particular of the legislation on public procurement. This problem is not resolved at the moment and is turning into essential issue, despite the fact that standardization activities in Ukraine seem to be regulated enough sufficiently.

Above we were talking about the following: the law of Ukraine “On Standardization” (Article 15) and DSTU 1.14 stipulate that national NDs in Ukraine are developed by the technical committees of standardization (TC). Each year, in accordance with the Article 9 and Article 19 of the Law of Ukraine “On Standardization”, on the basis of TC’s proposals, the Agency prepares and publishes for the consideration of the interested parties the National Standardization Working Program for the current calendar year. The Agency sets tasks for implementation, namely, defines standards to be harmonized, performers to carry out works – a TC or a WG (Working Group) in the absence of TC, as well as a timeline of their implementation. For the effective use of the state budget funds directed at standardization works, a special Methodology is used. This Methodology ensures the definition of the value for each harmonized standard and enables the formation of a specific contract for each executor (TC) in accordance with its field of activity. The abovementioned points out that all requirements for the implementation of drafting standards works are clearly defined.

However, the provisions of the Law of Ukraine “On State Procurement” question the results of the application of the above Methodology, as well as the normative and procedural compliance of the Law “On Standardization”. It defines the scientific research as services, sets various kinds of constraints and classifies all activities in the field of standardization as one of a variety of services. This creates a

significant problem when concluding contracts with the developer for works on the development of harmonized standards. The procedural and methodological unity of standardization is interpreted (falsely, as we consider) as the sole subject of procurement for quite different NDs which relate to various objects and areas of application of standardization that are covering various branches of industry and a significant part of services industry. Each national ND is an independent document with its markings and scope of implementation and, therefore, as a rule, is a separate subject of procurement that cannot be identified with another national ND. The documents of international and European standardization organizations in the leading countries of the world do not apply tenders in public procurement procedures for the development of standards or their adoption.

The above shows that it is expedient to develop national NDs on a noncompetitive basis, and the service for their development can be provided only by a certain performer (participant of the procurement procedure). The implementation of procurement procedures in accordance with the Law "On State Procurement" in any case delays the work on harmonization of standards at least for the quarter and requires additional efforts, resources, costs, and does not improve the final result.

The following difficulties in fulfilling tasks related to the harmonization of national standards with international and European occur each year. This problem can be characterized as systemic and cyclic. It is reoccurring every year, starting with the delay in signing the passport of the budget program, and consequently, the untimely financing of the works stages. Further delay in public procurement procedures causes the time pressure development of ND by the developer and the same time pressure with an assessment of the quality of such a development. Another negative consequence of such a state of affairs is often disputes with performers who under the time pressure violate the terms of the contract, primarily in terms of compliance with the quality of the product of the ND. Such disputes require more efforts and time in order to solve them in the administrative and legal terms.

In general, the aforementioned problem involves the risks of timely and complete implementation of the tasks of harmonizing national ND with international and European ones.

Another problem pointed out by the Agency and the Ministry is the slow implementation of the new standards for the replacement of the abolished ones. In 2015, more than 15,000 GOSTs that were adopted before 1992 were canceled. The abolition of these Soviet GOSTs was one of the commitments that Ukraine has undertaken signing the Association Agreement with the EU. Despite the fact that these standards were abolished in 2015, a transitional period of 2017-2019 was given for the development of the necessary NDs for their replacement. As the reality shows, work on the development of national normative documents, harmonized with international and European standards, is inadequate, and the deadlines are expiring. Responsible Ministries do not plan enough expenses and do not allocate necessary funds for this work; as a rule, ministries finance only the so-called priority development. And the responsibility for replacing the old standards with the new ones is assigned to the Agency.

In addition, it is not always possible to find standards within international and European ones that would replace GOSTs (in particular, in terms of the standards of the *Uniform System of Constructor Documentation* and the *Uniform System of Technological Documentation*).

The problems associated with standardization activities in Ukraine can also be attributed to the institutional strengthening of the Agency: at present, the main processes of standardization are not automated; inadequate automation of standardization dissemination processes is still visible; a large

number of standards remains unpublished; TRADOS translation software does not work properly; the lack of staff qualification and proficiency in foreign (especially English) languages is tangible, etc.

The work of the Agency is burdened with excessive amount of TCs, many of which are working poorly. The imperfection of the fundamental standards for standardization activities is hindering the Agency's functioning as well. One of the sensitive issues in the Agency's work is the low level of entrepreneurs' awareness of standardization prospects and, consequently, the low interest of business entities in financing standardization work.

It is obvious that at the current stage of development the Agency needs political, business and public support, as well as a moderate assistance from experienced European partners. Therefore, the two-year Twinning Project (2018-2019) is very relevant for the Agency. Within its framework it is planned to resolve a number of the listed institutional problems. The Agency's cooperation within the framework of the Project "Strengthening the Role of Civil Society and Small and Medium Enterprises in the Implementation of European Standards in the Eastern Partnership States" will promote the business entities awareness of standardization issues and will play a positive role in enhancing the society's awareness of the importance and significance of these issues.

### **4.3 Implementation of European standards in industrial and agro-food sectors: Where do we stand?**

#### ***Construction sector***

Statistical assessment of the developments (implementation of European standards) in the field of constructions is the following: there are 187 normative documents adopted in the construction sector, 145 normative documents in the field of construction materials and 42 normative documents in the field of civil construction.

Significant milestone in implementation of European standards was reached in 2017. On 17 January the Parliament of Ukraine amended a law which improves the classification of buildings and structures from a construction perspective and which consequently influences the procedure for obtaining construction permits<sup>24</sup>. Previously, the buildings and structures were classified in five categories determined by their complexity, where simple buildings and structures were assigned to category I and the most compound objects to category V. Commencement and commission of the buildings and structures in categories I – III was carried out on a declarative principle by means of submission of a respective declaration. At the same time, developers who constructed buildings and structures falling under categories IV – V had to first obtain a construction permit and certificate for their commission upon completion of construction.

Such classification was not in line with settled EU practice. The Law replaces the five categories of an object's complexity with the three classes of consequences. Project design organisations, with the approval of developers, will determine the object's classification based on criteria specified in the Law, as well as relevant construction standards and regulations.

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<sup>24</sup> <http://zakon2.rada.gov.ua/laws/show/1817-19>

Besides, on August 19 the Cabinet of Ministers of Ukraine has approved a bill on the main requirements to structures and the conditions for the marketing of construction products. The bill is intended to implement the EU Regulation No. 305/2011 laying down harmonised conditions for the marketing of construction products.

The bill sets the key requirements to structures and the construction materials technical approbation rules for marketing them, as well as to the entities that take part in the technical approbation and declaration in the construction sphere. The bill introduces a rule for determining the essential characteristics. The bill also describes obligations of manufacturers marketing their products on the construction materials market. Manufacturers shall draw up a declaration of performance.

### ***Agro-food sector***

The achievements in implementation of the European standards in the field of agriculture are the following: there are 193 normative documents adopted in the field of agriculture and 156 normative documents related to the production of food products. According to Association Agreements it aims to reach a 'common understanding' on animal welfare standards. In February 2016 agreement was reached between Ukraine and the European Commission on the contents of the Comprehensive Strategy, which is a list of roughly 255 EU regulations and directives. This sets out the implementation schedule for each regulation or directive. Audits are conducted by the EU to verify that sanitary and phytosanitary conditions (SPS) are being met and correspond with the Regulation 854/2004/EC on rules for the organization of controls of products of animal origin. This Regulation goes on to establish comparable rules for approving establishments in third countries for the purpose of exporting to the EU market. These arrangements are currently being used by Ukraine and will remain in force while the provisions of the Agreement are implemented.

A significant number of Ukrainian agro-food enterprises producing commodities of animal origin are already recognized for exporting to the EU in compliance with its SPS requirements. This mechanism can effectively continue to be used and expanded alongside entry into force of the Agreement, since its requirements are the same as those in Art. 69.2-5. Total SPS compliance for the whole of the territory of Ukraine is a long-term objective. Currently there are separate procedures for those enterprises willing and able to comply with export certification for the EU. This is an important element of effective flexibility in the Agreement and can help avoid excessive costs of compliance. Besides, there are provisions within the EU to exempt small scale production from various SPS requirements (Regulation 853/2004/EC on hygiene rules). For example, hygiene rules do not apply to production for private domestic consumption, or small quantities supplied to local retail establishments and markets. Ukraine remains free to apply similar exemptions for local markets. Costs for the producers can also be lowered through easier trade procedures, including fewer import permits and inspections.

Much less suspicious products will be subject to physical inspections. Some small producers will be hit by higher costs, but under EU regulations the authorities retain considerable flexibility in defining how local markets and traditional regional specialties may be exempted from full compliance with SPS standards. Moreover, in the next few years before the new SPS regime is fully established in Ukraine, there remains the possibility for individual export-oriented enterprises to be recognized by the EU as SPS-compliant. Ukraine's 2020 agriculture strategy prioritizes the expansion of the number of enterprises individually recognized in this way. Although the most promising markets for export expansion may well be in Asia rather than Europe, approximation of EU standards becomes a brand asset for accessing many world markets.

### ***Energy efficiency sector***

In accordance with the provisions of the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States, Ukraine pledged to bring domestic legislation to the acquits of the EU, *inter alia* in the sphere of energy and energy efficiency. The parties to the Agreement have agreed to continue and strengthen existing cooperation in the energy sector in order to increase energy efficiency. In the sphere of energy efficiency there are 107 normative documents adopted in the field of power engineering and heating engineering.

The country has undertaken the obligations to implement 2006/32/EU directive on energy end-use efficiency and energy services. The interim goal of the national plan in 2017 is the reduction of domestic energy consumption at the level of 5% of the average indicator for energy consumption in 2005-2009. As for specific actions that must be taken, according to the provisions of Directive 2006/32/EC, one of the priority objectives of the state is to achieve energy savings of 9% of the total public index for the ninth year of application of the Directive. In particular, energy distributors or retail energy sales companies should reach 1.5% of energy savings per annum by implementing energy efficiency measures.

New government regulations and standards have been adopted in the area of design and construction. In particular, changes were applied to the State construction norms (DBN) V.2.6.-31:2006 “Thermal insulation of buildings”, which bring the standards essentially closer to EU requirements. The classification of buildings is being implemented according to their energy efficiency grading from A to F, where A is the highest class and F is the lowest. In the project assignment the energy efficiency class of the building must not be less than class C. New standards for maximum heating costs for residential and public buildings are being set. On 1 January 2016, the new State Standard BA-2.2.12:2015 “Energy efficiency of buildings. The method of the energy consumption calculating for heating, cooling, ventilation, lighting and hot water” came into effect.

On 22 June 2017, a milestone law “On the Energy Efficiency of Buildings”<sup>25</sup> was adopted. Its goal is to set a new regulatory framework for energy efficiency that will apply to the majority of the buildings in the country. The framework correlates with the standards set out by the EU Directive 2010/31/EU on the energy performance of buildings. The Law will come into force on July 23, 2018 whilst certain provisions (for example, the ones related to mandatory energy efficiency certification) will come into effect even later – on 01 July 2019.

In order to gradually improve energy efficiency standards, the Law provides for the development of a national plan to increase the number of so-called “nearly zero-energy buildings”. Such plan shall be submitted to the Energy Community and should correspond with the respective acts of the EU legislation and the Energy Community.

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<sup>25</sup> <http://zakon2.rada.gov.ua/laws/show/2118-19>

## 5. MULTI-STAKEHOLDERS PARTNERSHIPS IN STANDARDIZATION PROCESS

Although the partnership between civil society organizations, academic institutions, business representatives, state bodies and national standardization body in the field of implementation of European standards has significant potential, it is not used to a full scale. The Agency is open to cooperation of that type if it is initiated by civil society institutions. However, the obstacle to cooperation is limited willingness of the representatives of SME to cooperate. Psychological barriers, exaggerated perception of risks related to costly shift to European standards, lack of understanding of advantages of European standards provide a lot of space for establishing further cooperation.

An efficient platform for setting cooperation with the interested stakeholders among NGOs, business representatives and state structures are the Technical committees (TC) which include all the interested stakeholders. If there are such options the representatives of the Agency also participate in trainings organized by different institutions and enterprises within different EU-funded projects, although the main goal of such cooperation is training of specialists. This year, for example, the representatives of the Agency attended the seminars within the project “Association 4U”, which were related to approximation of Ukrainian legislation to European (the organizer was the Ministry of Agriculture), and also cooperated with the Swedish trade council – participated in the seminar “Good regulatory practices and the assessment of the regulatory influence” and participated at forum related to the issues of technical regulations.

Another format of cooperation is participation in the exhibitions. Although state institutions and the Agency are limited in their resources and can only participate in the events where there are no participation fees, in May they participated in the activities of III National forum of export support organized by Chamber of Commerce and Kyiv city state administration there was an exhibition-presentation of the production of Kyiv enterprises named “Made in Kyiv”. The event was one of the elements of dialogue between the government, the EU and Ukrainian enterprises on export, investment and innovations. There were more than 160 enterprises from all the districts of the capital, working in the fields of machinery, construction, chemistry, health care, pharmaceuticals, polygraphs etc. More than 40 scientific institutions of Kyiv demonstrated their achievements, technologies and materials. National standardization body presented the selected relevant standards, which are currently important instruments of development of modern business and communicated with the participants of the exhibition.

It is noteworthy that most of the examples of cooperation are related either to activities within the TCs or different events. However, there is a lack of common initiatives on promoting European standards, conducting studies on the advantages and shortcomings of such standards, comparative analyses on the situation in the countries shifting to European standards – first and foremost Georgia, Moldova and Ukraine.



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