

Brussels, 15 May 2012

ENP Country Progress Report 2011 – Ukraine

The European Commission and the High Representative of the Union for Foreign Affairs and Security Policy published on 15 May 2012 the annual “neighbourhood package”, consisting of a joint communication (“Delivering on the new European Neighbourhood Policy”) making an assessment of the first year of implementation of the new ENP adopted in 2011, a separate joint communication proposing an “Eastern Partnership Roadmap”, a report on the “Partnership for Democracy and Shared prosperity” with Southern Mediterranean (including a roadmap for future action), an Eastern Partnership progress report 12 country reports (on developments in 2011 and with a set of recommendations for the future), including one on Ukraine, and a statistical annex.

In 2011 Ukraine took positive steps to secure deeper long-term future relations with the EU, and to confirm the European vector of its foreign policy, by working intensively to finalise the negotiations of the Association Agreement, which closed in December. At the same time, the EU repeatedly expressed its concern at the degradation of the rule of law in the country and the slow pace of a number of critical reforms.

On the basis of this year’s report, and with the view of a sustained implementation of the Association Agenda in 2012, Ukraine is invited to:

- Ensure that the constitutional reform process is carried out in an inclusive and transparent way and in close cooperation with the Council of Europe/Venice Commission.
- Effectively implement the Association Agenda priorities concerning the respect for the rule of law and democratic values.
- Bring legislation on freedom of assembly and media freedom into line with European standards.
- Address the issue of politically-motivated selective justice and take steps, more broadly, to ensure the independence of the judiciary and pursue reform in all aspects of the judicial process: prosecution, trial, sentencing, detention and appeals.
- Further develop co-operation with the Council of Europe (including on elections, the revision of the legislation on the Office of the Public Prosecutor and on the Bar, of the role of the High Council of Justice, of the

Criminal Code and notably its articles 364 and 365 as well as amendments to the laws on the Judicial System and the Status of Judges in accordance with the recommendations made by the Venice Commission, effective implementation of the Law on Free Legal Aid and establishment of a National Preventive Mechanism to prevent ill-treatment and torture), building on the experience of preparing the new Criminal Procedure Code; address transparently the recommendations and advice received during consultations.

- Take effective action to tackle conflict of interest and corruption as well as specific obstacles to business and investment; address the trade and trade-related reforms laid down in the Association Agenda with a view to facilitate the implementation of the future DCFTA.
- Address in good time issues raised in the area of justice and home affairs, notably on combating trafficking in human beings taking into account a gender and human rights perspective.
- Prepare and conduct the 2012 parliamentary elections in line with the standards of the Organisation for Security and Cooperation in Europe - Office for Democratic Institutions and Human Rights (OSCE/ODIHR), including full co-operation with monitoring missions.
- Establish a macroeconomic framework, conducive to the resumption of IMF support addressing inter alia issues of fiscal sustainability in the energy sector.
- Address outstanding issues of transparency and accountability in public finance management, making use of EU technical assistance in this area. This is a condition for continued EU budget support and EU macro-financial assistance.
- Bring the law on civil service of November 2011 in line with EU norms, which would allow an EU sector budget support programme of EUR 70 million to advance.
- Comply with the obligations of the Energy Community Treaty (as reflected in the Association Agreement and the Association Agenda) and pursue reforms in line with the commitments taken upon accession to this treaty.
- Coordinate better EU assistance and optimise its effectiveness by facilitating project and expert registration and integrating experts better in their respective working environment.

Political dialogue and reform

- The area of **deep and sustainable democracy** experienced a further deterioration in 2011. Several leading opposition figures, including former Prime Minister Tymoshenko, were subjected to selective justice, characterised by un-transparent judicial processes. Successfully addressing the issue of selective justice would open the way to the signature and ratification of the Association Agreement between Ukraine and the EU.

- A new law on **parliamentary elections** was approved with an overwhelming cross party majority, but it failed to take fully into account all of the recommendations from the Venice Commission.
- Authorities are increasingly hostile to public displays of discontent and on occasions tried to limit **freedom of assembly**. Concerns are also expressed regarding the future of **media freedom**.
- Despite the adoption of a National Anti-Corruption Strategy in October, **corruption** perception remains high. Conditions for **business** and **investment** have further deteriorated.
- Cases of **discrimination** on the basis of nationality or ethnic origin continue to be reported. Roma, Crimean Tatars, as well as other minority groups are affected.
- Ukraine continued to participate very constructively in the work of the **EU Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM)**. In December, the Ukrainian government approved of the long-awaited decision to authorise joint patrolling of the border between Ukraine and the Republic of Moldova.

Economic and social reform

- In 2011, Ukraine's economic **recovery** continued, with a relatively strong growth performance (**5.2%**) and inflation (**4.6%**) largely under control. However, there are significant risks to the fiscal balance and current account (5.9% of GDP).
- The implementation of the ambitious Programme for Economic Reforms for 2010-2014 has been slow. Progress has been achieved in **pension** reform and, to a lesser extent, in improving **budget** legislation. **Public administration** and **public finance management** remain unreformed and non-transparent, weakened by red tape and prone to corruption.
- The official **unemployment** rate is at 2.1% (2.2% in 2010). No progress was reported in adopting the amended Labour Code; several laws, notably concerning wages and collective bargaining, still have to be revised so as to ensure compliance with international **labour standards**.

Trade-related issues, market and regulatory reform

- EU imports from Ukraine **increased by 30.6%** and were dominated by iron and steel (29.5%), fuels and mining products (25.1%), as well as agricultural products (19.4%). EU exports to Ukraine experienced a **growth of 22.2%** and consisted mainly of machinery and transport equipment (36.6%) and chemicals (18.6%).
- In December, the EU and Ukraine completed the negotiations on a DCFTA as part of a future Association Agreement.
- Ukraine continued to gradually approximate with EU **sanitary and phytosanitary** standards and **Customs** Procedures.
- The **business climate** deteriorated in 2011. Pressure and harassment of businesses by various authorities and by law enforcement bodies, corruption

and a general deficiency of rule of law were reported as the major obstacles to doing business.

Cooperation on justice, freedom and security

- Ukraine made progress in the implementation of the first phase of the Action Plan for **Visa Liberalisation**. The first Progress Report on the implementation by Ukraine of the Action Plan was presented in September 2011, the second one in February 2012.
- Ukraine achieved progress in the area of **migration and asylum**, but it now needs to adopt additional by-laws and to finalise the National Migration Management Strategy. A law on the legal status of foreigners and stateless persons was adopted in September.
- Ukraine continued implementing the Concept for Integrated **Border Management** and the related Action Plan, approved in January 2011.
- Legislative acts were adopted in the field of combating **money laundering, organised crime, trafficking in human beings** and financing of **terrorism**.

Transport, energy, environment, the information society, research and development

- **Transport:** Ukraine started the implementation of the comprehensive transport strategy until 2020 by the development and elaboration of transport sub-sector programmes (EUR 65 million sector budget support programme). A road safety strategy was adopted in May and the revised air code entered into force in September.
- **Energy:** In 2011, Ukraine joined the Energy Community. The EU and Ukraine agreed the sixth progress report on the implementation of their Energy Memorandum of Understanding. As a follow-up to the joint EU-Ukraine conference on the modernization of the gas transit system, the EU financed feasibility study and environmental and social impact study progressed. After the Fukushima nuclear accident, Ukraine initiated a comprehensive risk and safety assessment of its nuclear plants ('stress tests'), taking EU standards into account. Donors raised additional funds to fill the financial gap for the completion of the major Chernobyl projects, with a further EU contribution of EUR 122 million
- **Climate change:** Ukraine took further steps to prepare legislation on emission trading. Ukraine is encouraged to engage in the new carbon market mechanism to be developed following the UNFCCC COP 17, as well as to fully implement the Cancun and Durban agreements.
- **Environment:** Ukraine adopted a national environment action plan for 2011-2015 to implement its new environment strategy approved in 2010. The EU launched a sector policy support programme in the field of environment (EUR 35 million).
- **Research and innovation:** the procedures for the prolongation of the EU-Ukraine S&T Cooperation Agreement to 2014 were completed in 2011. Ukraine is the seventh most active international partner country

participating in the 7th Framework Programme for Research and Technological Development (112 research organisations involved in 150 projects).

People-to-people contacts, education and health

- **Education:** a law on higher education was drafted but raised concern from civil society as it does not grant more autonomy to the universities. Ukraine continued to benefit from its increasing participation in education cooperation with the EU via the Tempus IV programme (38 projects), the Erasmus Mundus programme (354 scholarships and mobility grants); the Jean Monnet Programme (seven new projects) and the Marie Curie scheme (49 institutions and 62 individual researchers).
- **Culture:** Youth organisations continued benefitting from exchange opportunities under the Youth in Action programme (289 projects including 872 Ukrainian participants).
- **Health:** Ukraine developed a health reform concept and launched pilot decentralisation projects. The parliament adopted the law prohibiting tobacco advertisement, sponsorship and the promotion of sales. It also adopted a law combating HIV/AIDS.

EU-Ukraine – BACKGROUND

THE POLICY

The **European Neighbourhood Policy** governs the relations between the EU and Ukraine. Since 2009 the EU implements the **Eastern Partnership**, the Eastern dimension of the ENP framework, aiming at substantially upgrading engagement with the six Eastern neighbours via:

- a Bilateral track, whose objectives include the establishing of Association Agreements with Deep and Comprehensive Free Trade Areas, once conditions have been met, as well as progress on visa and mobility issues, and
- a Multilateral track (i.e. intergovernmental platforms and Flagship Initiatives).

This approach allows for gradual political association and deeper economic integration.

FACTS AND FIGURES

1998: EU- Ukraine Partnership and Cooperation Agreement entered into force.

2005: EU-Ukraine Action Plan was approved.

2007: Negotiations started for a far reaching Association Agreement (AA).

2007, 2008 and 2009: The EU's Civil Protection Mechanism (MIC) was mobilised to prepare a first assessment of the environmental damage and needs for pollution remediation efforts in Kerch Strait, in assessing the flooding of the Dnistr (Dniester) and the Prut rivers, to assist Ukraine in the flu pandemic as well as regarding a potential tailing dam collapse in Kalush.

2008: Visa facilitation and readmission agreements entered into force. Visa dialogue opened with a visa-free regime as a long term objective.

2008: Ukraine joined the WTO, paving the way for the negotiation of a DCFTA with the EU.

2007-2010: The ENPI¹ envelope for Ukraine stands at EUR 494 million, with additional allocation of EUR 28.6 million through the Governance Facility.

2008-2010 – Neighbourhood Investment Facility committed EUR 22 million to five projects in Ukraine, mainly in the energy sector. Ukraine also benefitted partially from EUR 42 million in regional projects approved for the ENP East region.

2011-2013: An indicative ENPI envelope of EUR 470.1 million announced by the Commission.

2011-2013: The new National Indicative Programme (NIP) 2011-2013 for Ukraine was adopted in March 2010 and has a budget of EUR 470.1 million. The programme is geared towards supporting the achievement of key policy objectives as outlined in the EU-Ukraine Association Agenda and pursues 3 priorities: (1) good governance and the rule of law; (2) facilitation of the entry into force of the EU-Ukraine

¹ the European Neighbourhood Partnership Instrument

Association Agreement (including a Deep and Comprehensive Free Trade Area (DCFTA)) and (3) sustainable development.

2011: Conclusion of the negotiations on an Association Agreement, including Deep and Comprehensive Free Trade Area (DCFTA).

2011: Ukraine became a member of the Energy Community.

2012: initialling of the EU-Ukraine Association Agreement.

More info at:

http://ec.europa.eu/world/enp/documents_en.htm

http://eeas.europa.eu/ukraine/index_en.htm

http://eeas.europa.eu/enp/index_en.htm