

EUROPEAN NEIGHBOURHOOD AND PARTNERSHIP INSTRUMENT

UKRAINE

NATIONAL INDICATIVE PROGRAMME 2007-2010

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1. Introduction

Following the events which led to the "orange revolution" at the end of 2004, Ukraine has pursued an agenda of ambitious reforms to root democracy and the market economy firmly in the country and to bring Ukraine closer to the EU.

The principal objective of cooperation between the EU and Ukraine at this stage is to develop an increasingly close relationship, going beyond past levels of cooperation to gradual economic integration and deeper political cooperation.

EC assistance will therefore aim at supporting Ukraine's ambitious reform agenda on the basis of the policy objectives defined in the Partnership and Cooperation Agreement (PCA) of April 1998 and the EU-Ukraine Action Plan of February 2005.

In this context the EC-Ukraine Country Strategy Paper (CSP) for 2007-2013, which was adopted by the Commission on 7th March 2007, provides a comprehensive overview of future EC assistance priorities encompassing all instruments and programmes and following the structure of the joint EU-Ukraine Action Plan which is divided into six main chapters.¹

This National Indicative Programme (NIP) for 2007-2010 defines in greater detail the focus of operations under the national envelope of the new European Neighbourhood and Partnership Instrument (ENPI). It is intended to guide planning and project identification by defining a limited number of priority areas, together with the objectives and results to be achieved.

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¹ These are: 1) Political dialogue and reform, 2) Economic and social reform and development, 3) Trade, market and regulatory reform, 4) Cooperation in justice and home affairs, 5) Transport, energy, information society and environment, 6) People-to-people contacts.

2. Main priorities and goals

Assistance provided under this National Indicative Programme for Ukraine should focus on three priority areas:

Priority Area 1: Support for Democratic Development and Good Governance

Sub-priority 1: Public administration reform and public finance management

Sub-priority 2: Rule of law and judicial reform

Sub-priority 3: Human rights, civil society development and local government

Sub-priority 4: Education, science and people-to-people contacts/exchanges

Priority Area 2: Support for Regulatory Reform and Administrative Capacity Building

Sub-priority 1: Promoting mutual trade, improving the investment climate and strengthening social reform

Sub-priority 2: Sector-specific regulatory aspects

Priority Area 3: Support for Infrastructure Development

Sub-priority 1: (non-nuclear) Energy

Sub-priority 2: Transport

Sub-priority 3: Environment

Sub-priority 4: Border management and migration including re-admission related issues

3. Indicative budget

The indicative financial envelope for Ukraine under the National Indicative Programme for the period 2007-2010 is $\leqslant 494$ million. This allocation may be increased through allocations under the "Governance Facility" which will reward those ENP countries which show the best performance in relation to governance issues.

The indicative breakdown of resources should be as follows:²

Priority Area 1:	148.2 mn
Support for Democratic Development and Good Governance	(30%)
Priority Area 2:	148.2 mn
Support for Regulatory Reform and Administrative Capacity Building	(30%)
Priority Area 3:	197.6 mn
Support for Infrastructure Development	(40%)

² Re-allocations between priority areas will be possible within the limits allowed by the relevant legal basis.

4. Priority Area 1: Support for Democratic Development and Good Governance

4.1. Strategic context/justification

Strengthening democracy and good governance are key priorities of the Ukrainian government and will require sustained support from the EC. This links up directly with the priorities of the ENP Action Plan, as specified in particular in chapters 2.1, 2.2, 2.4 and 2.6.

EC support in this area will be able to build on earlier and ongoing operations as the EC is already providing substantial assistance under current programmes. However, the still significant needs justify continuing to provide priority support to this area.

Public administration reform and improved public finance management (e.g. linked to social security systems) are crucial elements in enhancing institutional capacity and improving the transparency and public accountability of state and administrative structures at all levels. This is also a major element in ensuring the effectiveness of the fight against crime and corruption.

Linked to this, further assistance for judicial reform will be required to pursue the Action Plan's objectives of guaranteeing the independence of the judiciary and strengthening its administrative capacity and to ensure the impartiality and effectiveness of prosecution.

Such top-down measures should be accompanied by a bottom-up approach promoting citizens' rights and public participation in the political, economic and social spheres leading to stronger participation by citizens in public life and in control of institutional bodies and law enforcement agencies and services, including at local level. This may also entail actions to further strengthen and secure freedom of expression and freedom of the media. Improved access to justice and legal aid and a regulatory framework for civil society are further important elements in this context.

Assistance for reforming and upgrading the education system, including through exchange programmes, with a view to working towards convergence with EU standards and practices, will be essential to strengthen democratic development, social stability and economic competitiveness. Specific action promoting European initiatives and culture in Ukraine (and vice versa) should also be eligible for assistance.

Support for scientific and technological cooperation will also be important with a view to contributing to sustainable and equitable economic development of Ukraine.

4.2. Sub-priorities³

4.2.1. Sub-priority 1: Public administration reform and public finance management

a) Long-term impact

The expected long-term impact will be to contribute to developing a modern state oriented towards satisfying the needs of citizens.

b) Specific objectives

The specific objectives are to improve the quality and efficiency of service delivery by the public administration, including by fighting against corruption, and to improve public finance management, including at local government level.

c) Expected results

- Administrative and civil service reform plans developed, including anti-corruption measures;
- Implementation of reform plans underway in selected ministries and state agencies;
- Plans for more transparent and predictable public finance management developed;
- Plans for improved public finance management tested in selected policy areas (e.g. social security systems).

d) Indicators of achievement

Long-term impact

• Assessments/progress reports by EU and other donors on the situation concerning democracy, the rule of law, human rights and fundamental freedoms.

Specific objectives

- Better quality of public services demonstrated by service delivery surveys;
- More efficient use of public resources demonstrated by annual budgets.

4.2.2. Sub-priority 2: Rule of law and judicial reform

a) Long-term impact

The expected long-term impact will be to contribute to strengthening democracy, the rule of law, human rights and fundamental freedoms.

b) Specific objectives

³ As far as possible the expected long-term impact, specific objectives and results follow the objectives specified in the EU-Ukraine ENP Action Plan. Objectives may have to be adjusted in line with the results from monitoring implementation of the Action Plan.

The specific objective is to guarantee the effectiveness and independence of the judiciary and strengthen its administrative capacity and to ensure the impartiality, effectiveness and independence of prosecution.

c) Expected results

- Improved efficiency, knowledge and integrity of all members of the judiciary;
- Implementation of reforms related to civil, criminal and administrative codes and codes of procedure, based on European standards;
- Improved working methods of law enforcement agencies and prosecution;
- Implementation of reforms of the court system;
- Simplified legal procedures and easier access for citizens and economic operators.

d) Indicators of achievement

Long-term impact

• Assessments/progress reports by EU and other donors on the situation concerning democracy, the rule of law, human rights and fundamental freedoms.

Specific objectives

- Higher levels of independence demonstrated by surveys of lawyers and litigators; enhanced administrative capacities of the judiciary demonstrated by fewer court cases going to appeal and ultimately being annulled by higher courts.
- Development of out-of-court systems to speed up and cut costs of small civil cases.

4.2.3. Sub-priority 3: Human rights, civil society development and local government

a) Long-term impact

The expected long-term impact will be to contribute to strengthening democracy, the rule of law, human rights and fundamental freedoms.

b) Specific objectives

The specific objectives are:

- To ensure respect of human rights and fundamental freedoms, including in economic and social spheres, in line with international and European standards;
- To enhance involvement of citizens in decision-making processes and controls, including through civil society organisations;
- To secure freedom of expression and freedom of the media;
- To promote and enhance cooperation between governmental and non-governmental players, e.g. in the field of the environment, education, etc.;
- To strengthen local government structures in line with the standards contained in the European Charter on Local Self-Government:

• To foster active social dialogue between social partners as well as civil dialogue between private, public and civil society stakeholders.

c) Expected results

- Enhanced training and increased levels of awareness on human rights issues including core labour standards within law-enforcement organs;
- Increased public awareness of decision-making structures and procedures and stronger capacity on the part of civil society organisations;
- Improved and enforced legal and administrative framework to ensure respect of media freedom including journalists' rights;
- High-quality support for implementation of national administrative reform plans to strengthen local government in line with European standards;
- Institutionalised dialogue between relevant players with a view to ensuring sustainable environmental, economic and social development.

d) Indicators of achievement

Long-term impact

• Assessments/progress reports by EU and other donors on the human rights situation and level of citizens' involvement in policy areas such as the environment.

Specific objectives

- Greater levels of respect of human rights and fundamental freedoms demonstrated by a reduction of donor reports and media coverage of cases of human rights violations;
- Stronger public participation processes demonstrated, e.g., by case studies on major infrastructure projects or through development of consumer structures;
- Fully sustained levels of freedom of expression and media freedom demonstrated by independent assessments, NGO reports etc.;
- Stronger local government structures demonstrated by better management of local authorities and greater ownership of local authorities by their citizens, measured from donor reports, surveys of civil society structures and citizens' panels;
- Stronger structures of social dialogue demonstrated by the existence of effective tripartite cooperation and collective bargaining.

4.2.4. Sub-priority 4: Education, science and people-to-people contacts/exchanges

a) Long-term impact

The expected long-term impact will be to contribute to strengthening democratic development, economic competitiveness and social stability in Ukraine.

b) Specific objectives

The specific objective is to reform and upgrade education and training systems, including through exchange programmes, and to allow further integration of Ukraine into the European Research Area.

c) Expected results

- Improvements in the capacities of education and training systems in line with EU standards and practices, including greater participation in relevant exchange programmes;
- Stronger capacity of research structures (human and material resources) with a focus on scientific excellence;
- Stronger links between scientific and research communities in the EU and Ukraine, including educational institutions or networks.

d) Indicators of achievement

Long-term impact

 Assessments/progress reports by EU and other donors on social and enrolment indicators and standards of education systems.

Specific objectives

- Improved education and training systems demonstrated by studies assessing convergence with EU standards and practices;
- Increased participation by Ukrainian nationals in relevant exchange programmes;
- Closer integration of Ukraine into the European Research Area demonstrated by a higher number of joint activities and projects.

5. Priority Area 2: Support for Regulatory Reform and Administrative Capacity Building

5.1. Strategic context/justification

The process of gradual alignment of Ukraine with the EU's internal market rules will require major efforts on approximation of Ukrainian legislation, norms and standards with those of the EU, also bearing in mind the challenges Ukraine will face with a view to the EU-Ukraine Free-Trade Area envisaged once the WTO accession process has been completed. Progress in this area will also have a positive impact on the investment climate by ensuring transparency, predictability and simplification of regulation.

The EC is uniquely well-equipped to support this process as it can build on extensive experience gained in the process of the accession of the ten new EU Member States. In designing support in this area emphasis should be placed not only on technical advice on approximation of legislation and alignment of procedures, including technical regulations, conformity assessment procedures and standards but also, equally importantly, on administrative capacity building to ensure national ownership and effective enforcement of approximated rules and regulations. Support for participation by Ukraine in Community programmes, agencies and networks, insofar as these will be open to the country, will also contribute to this process.

The EU-Ukraine Action Plan defines a considerable number of priority areas for regulatory reform in relation to trade facilitation and the market, including customs legislation and procedures, conformity assessment, sanitary and phytosanitary (SPS) issues, consumer protection, establishment and company

law, financial services and markets, taxation, competition policy, enterprise and SME policy, intellectual and industrial property rights, public procurement and statistics.

In addition, sector-specific elements of regulatory reform and of strengthening administrative and institutional capacity will have to be addressed, notably in the fields of justice, freedom and security (JFS), energy, transport, agriculture and the environment.

EC support in this area thus links up directly with the priorities of the EU-Ukraine Action Plan, as specified in particular in chapters 2.2, 2.3, 2.4 and 2.5. As a general rule maximum flexibility will be required in order to respond efficiently to evolving needs during implementation of the Action Plan and beyond.

5.2. Sub-priorities

5.2.1. Sub-priority 1: Promoting mutual trade, improving the investment climate and strengthening social reform

a) Long-term impact

The expected long-term impact will be to contribute to the process of economic and social reform and development and the gradual alignment of Ukraine with the EU's internal market and social standards.

b) Specific objectives

The specific objective is to facilitate trade and to improve the investment climate and the employment and social situation in a sustainable manner.

c) Expected results

- Market and regulatory reforms in the form of approximation of legislation and alignment of procedures, including technical regulations, conformity assessment procedures and standards, as well as statistical standards, based on the EU-Ukraine Action Plan and agreed strategy on priorities;
- Implementation of reforms in the areas of trade and investment promotion, including through removal of many of the existing barriers;
- Implementation of legislative and policy reforms in the employment and social area aimed at close approximation with EU standards;
- Enhanced administrative capacity to ensure national ownership and effective enforcement of approximated rules and regulations.

d) Indicators of achievement

Long-term impact

• Economic and social development indicators and degree of internal-market alignment as measured and assessed by the EU in relevant progress reports.

Specific objectives

• Increased and (in terms of products) more diversified trade demonstrated by trade statistics from government and other sources;

- Improved investment climate demonstrated by increased FDI, surveys among investors and assessments/reports by the EU and other institutions;
- Improved employment and social situation demonstrated by data on job creation and provision of social services.

5.2.2. Sub-priority 2: Sector-specific regulatory aspects and administrative capacity

a) Long-term impact

The expected long-term impact will be to contribute to improving the competitiveness of the Ukrainian economy by strengthening relevant sectoral markets, notably in the transport, energy⁴, environment, agriculture and financial sectors and the information society, to develop the legislative and administrative framework for SMEs across all sectors, and to strengthen Ukraine's capacity in the areas of justice, freedom and security including border management and migration/asylum.

b) Specific objectives

The specific objective is to achieve regulatory convergence with the EU and to develop and improve capacity in the abovementioned areas.

c) Expected results

- Sector-specific regulatory reform and institution building in line with the priorities in the Action Plan and detailed sectoral strategies;
- Enhanced administrative capacities in ministries or state structures for the relevant sectors to ensure national ownership and effective enforcement;
- Enhanced ability of pilot towns/regions to cope with economic, social and industrial restructuring.

d) Indicators of achievement

Long-term impact

• Level of reforms in key sectors as assessed by the EU in relevant studies/progress reports.

Specific objectives

• Level of regulatory convergence with the EU in key sectors as assessed by the EU in relevant studies/progress reports.

6. Priority Area 3: Support for Infrastructure Development

6.1. Strategic context/justification

The need for Ukraine to upgrade the existing and develop new infrastructure and equipment is evident including from a rural development perspective, in particular in fields such as energy, transport and the

⁴ This includes promoting the convergence of technical norms and standards with those of the EU.

environment.⁵ In the past, the EC has been active in this area mainly through its regional or cross-border programmes and it will continue to address issues with a genuinely regional/cross-border dimension under a trans-national framework. Where appropriate, assistance will, however, also be provided on a national basis, including, as appropriate, at regional and local level.

In the energy sector, where Ukraine is a key strategic partner for the EU, assistance for infrastructure development will be provided on the basis of the priorities defined in the Memorandum of Understanding (MoU) on cooperation in the field of energy between Ukraine and the EU which was signed at the EU-Ukraine Summit of 1 December 2005. Other important areas are improving energy efficiency - with energy intensity in the Ukraine currently about three times higher than the EU-25 average - and promoting new and renewable energy sources. This includes improving the efficiency of district heating systems, which are currently a major source of energy losses and emissions.

In the field of transport Ukraine together with other Eastern European countries has been constructively involved in the work of the High Level Group (HLG) on the extension of the major trans-European transport corridors to neighbouring countries and regions. Assistance in this area will focus on priority routes and projects identified by the HLG and supported by the Commission in its forthcoming Communication on the report of the HLG. Ukraine also played an active part in the EU-Black Sea-Caspian Basin Ministerial Transport Conference in Baku on 14 November 2004 and the follow-up working groups. In the context of the development of a common aviation area between Ukraine and the EU, attention should be paid to aviation infrastructure projects with the aim to modernise the Ukrainian aviation sector and to improve links with the EU (airports, air traffic management).

With regard to development of environmental infrastructure, specific needs have been identified at national level, particularly in the areas of waste and water management.

Assistance will also be available in the areas of border management and migration including border crossings and re-admission related issues. As far as border crossings are concerned priority will be given to the jointly assessed crossing points with most difficult conditions for passengers and cargo traffic. Development of border infrastructure, including border crossings with non-EU countries, has been identified as a joint objective in the EU JHA Action Plan with Ukraine and is considered a top priority by the Ukrainian government. Support to the establishment of adequate border infrastructure in Ukraine will also facilitate cross-border trade from the EU to Ukraine and Russia by reducing waiting times at border crossing points. Finally, priority can be given to upgrading border infrastructure where needed so that Ukraine can continue to play a part in resolving the Transnistria conflict.

6.2. Sub-priorities (energy, transport, environment, border management)⁶

a) Long-term impact

The expected long-term impact will be to contribute to strengthening the competitiveness of the Ukrainian economy by supporting the provision of improved infrastructure networks and improved border management services.⁷

⁵ All regulatory aspects related to these sectors are dealt with under Priority Area 2. It will be important, however, to design assistance in an integrated and mutually reinforcing manner, as far as possible covering both regulatory aspects and issues related to support for infrastructure development.

⁶ The long-term impact, specific objectives and results are identified jointly for all sub-areas covered under this priority.

b) Specific objectives

The specific objective is, in close collaboration with the EIB, EBRD and other IFIs as appropriate, to improve the infrastructure network in Ukraine, notably in the energy, transport and environment sectors as well as with regard to border management including re-admission related issues.

c) Expected results

- Successful preparation of investment in selected infrastructure projects in line with EU priorities;
- Environmental and social impact assessments of selected infrastructure projects;
- Investment projects with EC grant component launched by the EIB, EBRD or other IFIs.

d) Indicators of achievement

Long-term impact

• Economic development indicators and improved service delivery as assessed by EU/other institutions, user surveys.

Specific objectives

• Improved and more efficient infrastructure networks demonstrated by technical reports/assessments.

7. Implementation

The general principle underlying the programme is partnership to achieve joint policy objectives. The Ukrainian counterparts should be drawn as far as possible into the design of operations, thus emphasising even further the clear link that must be formed between joint policy objectives and assistance cooperation. This includes exploring possibilities for co-funding by the Ukrainian side, thus demonstrating Ukraine's commitment.

If too many small, stand-alone measures were to be taken, this would result in administrative overload and delay implementation in general. Instead, programmes should contain a limited number of components with in-built flexibility. While detailed implementation mechanisms will be worked out action by action, support for Sector Programmes, including the use of pool funding and/or sector budget support, is encouraged wherever the necessary conditions are met.

New cooperation tools, like Twinning or TAIEX, are expected to be particularly useful in the areas of regulatory reform and administrative capacity building and should be fully exploited. In particular in these areas flexibility will be important to adapt implementation of EC assistance to evolving policy priorities. As appropriate, Ukraine will also be supported with participation in Community programmes, agencies and networks, insofar as these will be open to the country. This should also include support to the final beneficiaries so as to make them able to benefit from the opportunities offered under the open programmes.

⁷ This long-term impact should emerge as a result of coherent sectoral action addressing Priority Areas 2 and 3.

As far as support for infrastructure development is concerned, EC assistance should be implemented in close collaboration with the EIB, EBRD and other IFIs and may include support for investment preparation, environmental and social impact assessments, and grant funding of specific investment components. Interest rate subsidies can leverage investments by international financing institutions in the fields of environment, energy and transport, as explained in the Country Strategy Paper. EC support to any form of infrastructure development will be subject to full compliance with the relevant requirements of the EU *acquis*.

An appropriate mechanism will have to be found to foster the development of civil society, including for providing support at local community level.

8. Risks and assumptions

The key assumption underlying this Indicative Programme is continuous commitment to the reform agenda and policy objectives contained in the jointly agreed EU-Ukraine Action Plan and in the Partnership and Cooperation Agreement (PCA). Should this assumption no longer hold true, as a result of major policy changes on the Ukrainian side, the priorities under this Indicative Programme and the underlying Country Strategy Paper might have to be subject to an early review.

As far as the move to new delivery mechanisms and financing methods such as budgetary support is concerned, the assumption is that progress will be made with the development of well-defined sector policies. Furthermore, improved public finance management, with donor support as appropriate, and a stable macroeconomic framework will be necessary.

9. Alignment, harmonisation and consultation

9.1. Dialogue with the government and alignment with national policies

The policy objectives set in the EU-Ukraine Action Plan were agreed formally by the two sides in February 2005.

Consultations with the Ukrainian authorities on this Programme and the underlying Country Strategy Paper began during a programming mission in July 2005. It was agreed at that stage that the future assistance strategy has to be based on the jointly agreed policy objectives while selecting a limited number of priority areas where EC financial assistance can be expected to have most impact. The Ukrainian side noted with satisfaction that the future ENPI will provide a more flexible instrument and that technical assistance will no longer be the predominant channel of EC assistance.

During a second mission in October 2005 draft programming documents were discussed with the National Coordinator and the National Coordinating Unit. The Ukrainian side expressed broad agreement with the shape of the programme proposed. Throughout 2006 further discussions with the Ukrainian authorities took place with a view to finalising the programming documents.

9.2. Harmonisation and coordination with Member States, other donors and civil society

Member States were briefed, and invited to comment, on the Programme in the course of regular coordination meetings hosted by the EC Delegation in Kyiv.

Intensive contacts have been maintained in Kyiv and in Brussels with all other relevant donors, including the EIB, EBRD, World Bank, UNDP and USAID. A round-table discussion with civil society organisations took place in Kyiv as part of the programming process..

In the spirit of the Paris Declaration on Aid Effectiveness, in the period ahead attention will need to be paid to closer donor coordination, particularly in the context of preparing and implementing sector-wide support programmes.