

**EXCERPT FROM JOINT STAFF WORKING DOCUMENT "IMPLEMENTATION OF THE EUROPEAN NEIGHBOURHOOD POLICY IN UKRAINE - PROGRESS IN 2011 AND RECOMMENDATIONS FOR ACTION" - 15 MAY 2012**

**1. OVERALL ASSESSMENT AND RECOMMENDATIONS**

This document reports on the progress made in implementing the EU-Ukraine Association Agenda between 1 January and 31 December 2011. Developments outside this reporting period are also taken into consideration where deemed relevant. This is not intended to be a general review of the political and economic situation in Ukraine. For information on regional and multilateral sector processes, readers should refer to the Eastern Partnership report.

In 2011 Ukraine took positive steps to secure deeper long-term future relations with the EU by working intensively to finalise the negotiations of the Association Agreement. This Agreement establishes a comprehensive agenda for political association and economic integration on the basis of the sharing of European values, increased market access, approximation with the EU *acquis* and the overall modernization of Ukraine's institutions. It includes a Deep and Comprehensive Free Trade Area (DCFTA), and covers political and security co-operation, justice, liberty and security, financial co-operation and a comprehensive programme of approximation to the EU *acquis* across all sectors. Substantive negotiations on the Agreement were closed in December and the text was initialled on 30 March 2012.

In the area of democracy and human rights there was further deterioration. Several leading opposition figures, including former Prime Minister Tymoshenko, were subjected to selective justice, characterized by un-transparent judicial processes. This attracted substantial criticism both at home and abroad. Ukraine's performance, notably in relation to respect for common values and the rule of law, will be of crucial importance for the speed of its political association and economic integration with the EU, inter alia with regard to conclusion of the Association Agreement and its subsequent implementation. This would also provide a new momentum to a political dialogue which at present is dominated by discussions on stalled reforms and the rule of law. The adoption of a new Law on Public Associations in March 2012 was an important first step signalling a possible change from the existing trend.

Despite the adoption of new legislation, corruption perception remains high and Ukraine maintains a low position in relevant international indices. Conditions for business and investment have further deteriorated.

In November 2011, a new law on parliamentary elections was approved with an overwhelming cross party majority, although it failed to take fully into account all of the recommendations from the Venice Commission<sup>1</sup>.

In the second part of the year Ukraine started a process of reviewing the Criminal Procedure Code which dates from the early 1960s (the Criminal Procedural Code was later adopted in April 2012). This revision was carried out in close consultation with

---

<sup>1</sup> Subsequent to the reporting period, in April 2012, the Constitutional Court of Ukraine ruled that some of the provisions of the new law on parliamentary elections were unconstitutional.

experts from the Council of Europe and could represent an example for pursuing other reforms such as revision of the Criminal Code.

In 2011, Ukraine's economic recovery continued, with a strong growth performance and inflation largely under control. However, there are significant risks to the fiscal balance and the balance of payments. Moreover, the International Monetary Fund (IMF) programme is currently off-track, with an impact on access to international capital markets. Ukraine has resumed talks with the IMF in February.

Ukraine's progress in achieving important structural reforms and implementing the Association Agenda priorities remained below expectations. Public procurement legislation was brought closer to international standards but reforms in the field of public finance management were not adequately pursued. This had a negative impact on the delivery of EU financial assistance including budget support<sup>2</sup>.

Ukraine made progress in the implementation of the first phase of the Action Plan for Visa Liberalisation.

On 1 February 2011, Ukraine acceded to the Energy Community Treaty committing in the process to implement a number of significant structural reforms including, for the gas sector, third party access and the separation of production, distribution and transport. Further efforts by Ukraine are necessary to fulfil these commitments.

Increased prices for imported gas negatively impacted on Ukraine's fiscal situation: securing a new arrangement with Russia remains a top priority for Ukrainian authorities. This needs to be linked to long-term energy reform including the restructuring of the state oil and gas monopolist Naftogaz and improving energy efficiency and the use of renewable energy. The EU will continue to offer to both Ukraine and Russia to participate in tripartite discussions on gas transit.

In a successful pledging conference in April 2011, EUR 550 million were pledged for the implementation of projects to complete the permanent shelter and related facilities at the Chernobyl site.

Ukraine continued to cooperate with the EU on regional and international issues. At the regional level, Ukraine's agreement with the Republic of Moldova on the demarcation of the borderline at the Odessa-Reni highway sector at Palanca gave a boost to bilateral relations. Cooperation with the EU on all questions related to the Transnistria settlement was very constructive.

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 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.

---

<sup>2</sup> Subsequent to the reporting period, in April 2012, Ukraine reinvigorated the Department in the Cabinet of Ministers following up on the European agenda. It also took initial steps towards the adoption of a strategy on public finance management.

- Bring legislation on freedom of assembly and media freedom in line with European standards.
- Address the issue of politically-motivated selective justice, 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 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. Sustained improvements in public finance management are also essential for continued EU budget support.
- 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.

Full document:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2012:0124:FIN:EN:PDF>