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Association Implementation Report on Ukraine

ASSOCIATION IMPLEMENTATION REPORT ON UKRAINE

1. Summary

The reviewed European Neighbourhood Policy (ENP)¹ gives the EU and its neighbours a clear political framework for the coming years with an overall objective on stabilisation. In line with the new approach to the ENP, this ENP country report sets out the state of play of Ukraine's implementation of the Association Agenda since 1 January 2015, ahead of the EU-Ukraine Association Council of 2016.

In 2015 and 2016, Ukraine has undertaken intense and unprecedented reforms across a number of sectors of the economy and society, while its democratic institutions have been further revitalised. Ukraine is committed to the protection and promotion of common fundamental values of democracy, human rights and the rule of law. The illegal annexation of Crimea and Sevastopol by the Russian Federation and the conflict in the east of the country provoked by Russia's destabilising actions pose significant challenges to Ukraine's reform process from a political and economic perspective, in addition to causing significant human suffering. Ukraine is actively seeking peaceful legal and political solutions in this area.

On 1 January 2016, the European Union and Ukraine began applying provisionally the Deep and Comprehensive Free Trade Area (DCFTA), the trade title of the EU-Ukraine Association Agreement (AA) – in addition to other parts already applied provisionally since November 2014². The related cooperation structures, such as the Association Council, the Association Committee including its trade configuration, and various subcommittees, are up and running.

The authorities have committed to the reform agenda, guided by the AA (including the DCFTA) and the Association Agenda and their implementation. Key strategic documents underpinning the reform process have been adopted by the government. The practice of consultation with a particularly vibrant civil society and professional organisations in Ukraine has also gained ground. Across many reform areas, implementation is well advanced, while in others, legislation has been adopted and institutions put in place, with actual implementation still pending.

One of the key challenges facing Ukraine in its reform process is the introduction of sustainable changes to reduce opportunities for corruption and to ensure that corruption allegations are pursued in court. Ukraine has set up new anti corruption institutions and adopted legislation on anti-corruption, which it is starting to implement. It is mainstreaming an innovative public procurement system (ProZorro) that has already in the pilot phase allowed savings of public funds. Ukraine has diminished the space for corruption through reforms of the banking and energy sector, including by bringing gas sector tariffs to import parity level. Constitutional amendments as well as new legislation on the judiciary have been adopted in order to strengthen judicial independence and to reorganise the court system, by streamlining the judicial instances

¹ Joint Communication of 18 November 2015 on the 'Review of the European Neighbourhood Policy' and Council conclusions of 14 December 2015.

² The articles under provisional application are: 7 out of 23 articles of the political part of the Agreement (Title I on general principles, Title II political dialogue and CFSP and Title III Justice Freedom and Security); almost all the provisions of the DCFTA (Title IV trade and trade-related issues); 9 out of 28 chapters in Title V (economic and sectoral cooperation); Title VI (the provisions related to financial cooperation and anti-fraud provisions) and the institutional framework (Title VII); and three protocols (on the origin of products, mutual administrative assistance related to customs and the participation of Ukraine in European Union programmes).

(from four to three) and by subjecting the sitting judges to examinations and mandatory electronic asset declarations. A civil service law and a strategy on reforming the public administration, in line with European standards, are in place. A new National Police has been set up. Work is underway to improve public financial management and introduce greater transparency to the handling of privatisations. Last but not least, the launch of the electronic asset declarations of public officials resulted in the publication of over 100,000 detailed declarations.

Constitutional amendments related to decentralisation have been adopted by the parliament in the first reading, with the second reading still pending. Further steps have been taken in the merger of municipalities and in fiscal decentralisation. Public access to information has been improved and the Ombudsperson's office has been empowered to oversee this process.

The European Commission has proposed to lift visa requirements for the citizens of Ukraine, after Ukraine successfully met all benchmarks under the Visa Liberalisation Action Plan. On 17 November 2016, the Permanent Representatives Committee (Coreper) agreed, on behalf of the Council of the European Union, a negotiating position on visa liberalisation for Ukraine, pending the entry into force of the new suspension mechanism.

Decisive policy actions by the Ukrainian authorities in the past two years, supported by its international partners, have reduced external and internal imbalances and the macro-economic situation has stabilised. As a result, the economy was able to return to growth in the first half of 2016, consumer price inflation moderated and the central bank's international reserves have increased substantially. The restructuring of the banking sector lowered systemic risks to public finances and to the economy in general. Via provisional application of the DCFTA, Ukrainian and EU businesses have stable preferential market access. The EU continues to reinforce its position as Ukraine's first trade partner. Ukraine's trade with the EU increased by 7.5% in the period October 2015 – September 2016 compared to the same period in the 2014-2015³. Apart from diminishing the space for corruption, the broad energy sector reform has helped increase market transparency, incentivise energy saving, substantially reduce the fiscal burden of the energy sector and limit Ukraine's dependence on gas imports from Russia.

Ukraine has the potential to attract more foreign investment, with international rankings pointing to legal and judicial unpredictability and an inadequate institutional framework as the main problems for the business and investment climate. The privatisation of state owned enterprises has stalled, and the moratorium on the sale of agricultural land has been extended until 1 January 2018.

Reforms in the social and health sector have advanced slowly. In February 2016, the payment of social benefits and/or pensions was suspended for many Internally Displaced Persons (IDPs) pending the verification of certificates and individual entitlements. The related issue of payments of social benefits and pensions to Ukrainian citizens residing in the non-government controlled areas has yet to be addressed.

The EU has provided a support package to help stabilise Ukraine. Macro-financial assistance loans amounting to EUR 3.4 billion have been committed since 2014, of which EUR 2.2 billion have been disbursed. In addition, EU support in the priority reform areas established together with Ukraine and EU Member States has been facilitated in particular via the Support Group for

³ Source: Eurostat

Ukraine. The focus for 2015/16 has been decentralisation (EUR 100 million), economic development (EUR 90 million), anti-corruption (EUR 15 million), public administration reform (EUR 104 million) and rule of law (EUR 52.5 million plus Technical Cooperation Facility EUR 29.5 million), as well migration management (EUR 28 million). Support related to the conflict through the Instrument contributing to Stability and Peace (IcSP) amounted to EUR 73.7 million since 2014. In 2015 and 2016 the Commission humanitarian aid department allocated a total of EUR 54.8 million, which was reinforced by contributions from Member States. Ukraine has benefitted from the so called "umbrella" funds, which are allocated based on a partner country's progress on reforms.

Ukraine has participated actively in the review of the European Neighbourhood Policy and in the implementation of the agreed priorities within the Eastern Partnership (EaP). In view of achieving tangible results for citizens, work has been ongoing to identify key deliverables for 2020, with milestones to be achieved by the next EaP Summit in November 2017. Ukraine's contribution to the Eastern Partnership's deliverables will be important in the run-up to a successful Eastern Partnership Summit.

2. Political dialogue, good governance and strengthening institutions

2.1 Democracy, human rights and good governance

In the area of **anti-corruption reforms**, Ukraine has initiated a number of important legislative and institutional changes. This has been a response both to public demand and to the requirements in the Visa liberalisation Action Plan.

The National Anti-Corruption Bureau (NABU) - a new law-enforcement agency - started the first investigations of high-level corruption cases in December 2015, following the appointment of the Head of the Specialised Anti-Corruption Prosecution Office (SAPO). Both NABU and SAPO are fully operational. In order for them to completely fulfil their respective mandates, their independence and integrity need to be fully respected.

The National Agency for Prevention of Corruption (NAPC) is operational since early 2016. NAPC took over from the Ministry of Justice the function of coordinator of the anti-corruption policy in Ukraine according to the Law that entered into force in April 2015. NAPC focuses on political corruption (financing of political parties), monitoring of conflict of interest, and is in charge of the state policy of corruption prevention. Four out of five members of the Board were selected and appointed on 16 March 2016.

NAPC launched Ukraine's new electronic asset declaration system on 1 September 2016, as a tool to increase transparency and curb corruption. Over 100,000 declarations have been submitted so far.

Ukraine has amended the legal and institutional framework as regard asset recovery. The law on the Asset Management and Recovery Office (AMRO) entered into force in June 2016. The law sets up mechanisms for identifying, tracing and managing assets derived from corruption and other crime, and provides for the establishment of an independent authority to carry out such activities.

The creation of the new State Bureau of Investigation (SBI) and a new High Anti-Corruption Court is still outstanding. The EU supports all these efforts via an anti-corruption programme implemented by the Danish Development Agency DANIDA.

Reforms in this area are underpinned by significant reforms in the justice sector and in law enforcement (see 2.3), as well as in the above mentioned banking and energy reforms.

In the framework of the **decentralisation process**, amendments to the Budget and Tax codes have transferred additional budgetary powers to local governments. This has resulted in a stable increase in local budget revenues. In the process of voluntary mergers, over 1000 municipalities (almost 10% of the total number of municipalities) merged to create 184 amalgamated communities. Work has also been done to increase regional competitiveness and ensure territorial socio-economic cohesion and spatial development, while the potential of the State Regional Development Fund is still not fully used. The EU is supporting the decentralisation process via a EUR 100 million programme on decentralisation (“U-LEAD”) launched in September 2016, to which Germany, Sweden, Poland and Denmark contribute via financing contributions and/or through implementation. **Constitutional amendments on decentralisation**, adopted in the first reading in August 2015, are pending the final reading. Draft constitutional amendments on human rights were discussed in 2015, but so far no draft has been submitted to the parliament.

Local elections took place in October and November 2015, and were assessed by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) as *"competitive, well organized overall and the campaign generally showed respect for the democratic process"*. This notwithstanding, some criticism was expressed in relation to the complexity of the legal framework, the dominance of powerful economic groups, and the fact that virtually all campaign coverage in the media was paid for. The election law for these elections was adopted less than four months before election day and without public consultation. Electoral legislation for all types of elections remains to be harmonised and consolidated.

In February 2016, a law was passed that allows the post-election exclusion of candidates for seats in the parliament from party lists. The law was negatively assessed by the Council of Europe's Venice Commission because it empowered political parties *ex post facto* to deny the electorate its choice. A similar law at local level was adopted by the parliament in the first reading in December 2015 and is pending final reading.

The appointment of 12 new members of the Central Election Commission, to replace those whose mandate expired on 1 June 2014, is pending.

In 2015 Ukraine adopted its first ever National **Human Rights** Strategy and Action Plan for 2015-20, in which the Ukrainian civil society and Human Rights Ombudsman took an active part. Their implementation requires adequate resources which is lacking so far.

The illegal annexation of Crimea and Sevastopol and the armed conflict in eastern Ukraine have resulted in a new series of violations of human rights and of international humanitarian law, and restrictions on freedom of movement, which are difficult for the Ukrainian government to address. The human rights situation of Crimean Tatars remains a particular concern in this regard. Concerns over human rights in the areas controlled by the government include the lack of progress so far in the investigation of crimes committed during Maidan in Kyiv (2013-14) and in Odesa (2 May 2014), persisting instances of torture and illegal detention, violations of freedom of expression and media (the safety of journalists), cases of socio-economic exclusion, discrimination based on different grounds and insufficient protection of vulnerable groups, i.a. women and children. In June 2015, Ukraine notified the Secretary General of the Council of

Europe about the derogation from certain provisions⁴ of the International Covenant on Civil and Political Rights and of the European Convention on Human Rights and Fundamental Freedoms.

Due to the ongoing conflict, the **humanitarian situation** in eastern Ukraine remains of serious concern, mainly in the non-government controlled areas where humanitarian activities are restricted. Following a temporary order issued in January 2015, which has restricted the freedom of movement of civilians and goods across the contact line and thus increases safety risks and vulnerability, the government committed to facilitate access and movement of citizens in these areas.

In February 2016, social benefits (including pensions) were suspended for at least 450,000 **Internally Displaced Persons (IDPs)** (between 500,000 and 600,000 according to the UN), on the basis of fraud allegations. Verification procedures were launched in June and are ongoing. As of 16 November, social payments had been reinstated for 274,764 IDPs, while up to 175,000 IDPs (or 325,000 taking into account the UN upper estimate) remained potentially without access to their social benefits and pensions. Pension payments to citizens residing in non-governmental controlled areas were also suspended in February 2015, which was declared illegal by the Supreme Administrative Court of Ukraine in October 2015. In April 2016, a Ministry for Temporarily Occupied Territories and Internally Displaced Persons (IDPs) was established to coordinate government efforts in addressing all issues related to the conflict region including IDPs, conflict management and humanitarian assistance. A comprehensive IDP integration strategy and action plan remains to be developed.

A **civil service law**, which conforms to the Principles of public administration developed by Organisation for Economic Cooperation and Development / Support for Improvement in Governance and Management (OECD/SIGMA), entered into force on 1 May 2016. Since then, more than 500 competitive selection procedures to various civil service positions have taken place. On 22 June 2016, the 2016-20 **Strategy for public administration reform (PAR)** and a corresponding implementation plan were adopted, structured around the OECD/SIGMA Principles of Public Administration. The EU is supporting this with a comprehensive programme for public administration reform (EUR 104 million). Furthermore, "Reform Support Teams" are being set up across various ministries.

On 8 September 2015, Ukraine lodged a second declaration under article 12(3) of the **Rome Statute**, accepting the jurisdiction of the International Criminal Court also over alleged war crimes and crimes against humanity committed on the territory of Ukraine since February 2014. The constitutional amendments related to the judiciary enable the ratification of the Rome Statute, albeit with a three-year delay before the entry into force of this provision.

Throughout 2015/16, Ukrainian **civil society** played an active role in the design and oversight of reforms. Coalitions of think-tanks have participated in the preparation of different reforms, especially in the area of anti-corruption and judicial reform. In addition, throughout the reporting period the Civil Society Platform under the Eastern Partnership, the EU-Ukraine Civil Society Platform foreseen by the Association Agreement and other members of civil society have been participating actively in consultative meetings between civil society and institutions in charge of European Integration .

⁴ The obligations established in Article 2, paragraph 3, and Articles 9, 12, 14 and 17 of the International Covenant on Civil and Political Rights, Articles 5, 6, 8 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms

2.2 Foreign and security policy

The **conflict situation in eastern Ukraine** remains tense and volatile, marked by daily ceasefire violations. According to the Office of the United Nations High Commissioner for Human Rights, by 15 September 2016, 9 640 people had been killed in the conflict and 22 431 people had been wounded. The total figure for reconstruction and recovery needs in the government-controlled territory has been estimated at 1.5 billion USD.

Following the February 2015 **Package of Measures agreed in Minsk**, four working groups under the Trilateral Contact Group (TCG) were created and meet on a regular bases to discuss security, political, economy and humanitarian issues related to the conflict settlement. A series of recommitments to the ceasefire have been declared both by UA and the Russian-backed separatists, most recently on 1 September 2016. In addition to the work of the Trilateral Contact Group and its working groups, attempts are underway to achieve progress on all tracks in the **Normandy Format**.

The OSCE Special Monitoring Mission (SMM) was deployed in March 2014 and has since then gathered information and reported on the security situation on the ground. The IcSP has supported the SMM's human and technological capacity with EUR 30 million since its deployment. An additional EUR 37.7 million has been provided through the IcSP to support election observation, confidence building measures, IDPs and conflict-affected populations.

Ukraine has been active in seeking legal solutions following **the illegal annexation of Crimea and Sevastopol** by the Russian Federation and the conflict in eastern Ukraine, including through legal proceedings under various UN Conventions and Treaties.

Ukraine has continued cooperation with the international investigations and criminal proceedings related to **the downing of the MH17 flight**. On 28 September 2016, the preliminary report by the Joint Investigation Team (JIT), which Ukraine is part of as one of five countries, was published. It established that the downing of the flight was due to a collision with a BUK missile brought from Russia into separatist-held Ukrainian territory before the incident and then returned to Russia.

In 2015, Ukraine aligned with 39 out of the 45 **EU Common Foreign and Security Policy (CSFP) declarations** that it was invited to support. In 2016, until 10 November, Ukraine aligned with 19 out of the 27 EU CFSP declarations which it has been invited to support. Ukraine continued to cooperate with the EU on regional and international issues during the reporting period. In the **Common Security and Defence Policy** area, in 2016 Ukraine has contributed to three EU Battle groups with military personnel and one strategic lift aircraft. In May 2016, the Ukrainian Armed Forces participated in the military crisis management exercise MILEX16, within the HELBROC EU Battlegroup. An Administrative Arrangement between the European Defence Agency (EDA) and the Ukrainian Ministry of Defence was signed on 7 December 2015 enabling Ukraine's potential participation in EDA's military-technological projects and programmes. A report of a United Nations Experts Panel on South Sudan of 22 January 2016 noted that Ukraine had supplied attack helicopters to South Sudan, despite being aligned with an EU arms embargo.

2.3 Justice, Freedom and Security

In the area of **justice sector reform** constitutional amendments concerning the judiciary were adopted in June 2016. They provide for the creation of a new Supreme Court, the strengthening

of judicial independence as well as for simplification of the court system. Some implementing legislation foreseen by the amendments remains to be adopted. The selection process for the new Supreme Court judges is ongoing; the new court is due to be established in March 2017. The re-evaluation of judges started in February 2016, but was suspended in June pending the creation of the new Supreme Court. Legislation to reform the **enforcement of court decisions** was adopted in June 2016 and is being implemented. Efforts to reform the **General Prosecutor's Office (GPO)** continue. Access to justice improved through an increase in legal aid recipients and new legal aid bureaux.

New legislation brought Ukraine closer to compliance with the **money laundering** recommendations of the Financial Action Task Force and MoneyVal, as well as with the fourth EU Directive on Money Laundering and anti-terrorist financing.

Amendments to the Law of Ukraine on **Protection of Personal Data** that would strengthen the enforceability of decisions taken by the Ombudsperson are under preparation, but so no drafts have yet been registered in the parliament in 2016. In May 2016 a Ukrainian web-site published the personal data of journalists who have received accreditation in the so-called "Donetsk and Luhansk People's Republics". The publication was seen by the Ukrainian Human Rights Ombudsman, civil society and international partners as violating Ukrainian law and international commitments that Ukraine has made in this regard.

The ongoing **civilian security sector reform** aims at strengthening respect of rule of law, increasing efficiency (quality of service delivery) and building citizens' trust (transparency, accountability). The EU Advisory Mission (EUAM) is playing a key role in supporting and coordinating these efforts. The development of a comprehensive civilian security sector strategy is outstanding.

In June 2016 Ukraine signed an **Agreement on Cooperation with Eurojust**, which enables the exchange of operational data in the area of combating serious crime and terrorism.

An **Integrated Border Management (IBM) Strategy and Action Plan** was adopted in August 2016 and a joint order on data exchange between IBM actors in September 2015. Six common border operations with national and international actors were carried out in the past year. Biometric infrastructure and connections to Interpol Database are being installed.

A **law-enforcement reform** is taking place on the basis of a separation of the executive from political-administrative functions. The reform of the police was put into practice in November 2015 with the creation of the new National Police of Ukraine (NPU). All police-related functions, except expert services and databases, were moved from the Ministry of Internal Affairs to the direct supervision of the NPU, which is in the process of forming a new structure, including the newly created Patrol Police. The first phase of the re-certification of all police officers in Ukraine was finalised in October 2016. The Instrument contributing to Stability and Peace is supporting police reform in the areas of community policing and public order.

The **Visa Facilitation and Readmission Agreements** continued to be implemented in full and are monitored through the Joint Committees established under those agreements. In its sixth and final progress report on **Visa Liberalisation Action Plan (VLAP)**, adopted on 18 December 2015, the European Commission considered that Ukraine had made the necessary progress and had undertaken all the required reforms to ensure effective and sustainable implementation of the VLAP. On 20 April 2016, the European Commission concluded that all the **visa liberalisation** related benchmarks and the anti-corruption commitments had been fully achieved and put forward a legislative proposal to lift visa requirements for the citizens of Ukraine. The proposal

is currently under consideration by the European Parliament and the Council. On 17 November 2016, the Permanent Representatives Committee (Coreper) agreed, on behalf of the Council of the European Union, a negotiating position on visa liberalisation for Ukraine. The date of entry into force of visa liberalisation for Ukraine depends on the entry into force of the new suspension mechanism.

3 Economic development and market opportunities

3.1 Economic development

Ukraine's economy has stabilised. GDP is expected to grow by 1-2% in 2016 after a cumulative contraction of 16% in 2014 and 2015. Economic stabilisation is supported by prudent macroeconomic policies and significant financial and technical assistance provided by Ukraine's international partners, including a EUR 3.4 billion macro-financial assistance programme being provided by the EU. Consumer price inflation has moderated, the hryvna exchange rate has stabilised and international currency reserves have been steadily growing. Still, foreign direct investment remains low, hindered by legal and judicial unpredictability, including cases in which law enforcement does not intervene effectively in response to corporate raids, and an inadequate institutional framework, as well as the war in the East of the country.

Ukraine embarked on a wide-ranging plan to overhaul the existing regulatory and supervisory framework for both **banks and other participants in the financial market**. A Comprehensive Programme for Financial Sector Development to 2020, which has taken the EU financial services acquis as its reference point, prioritises areas such as banking sector stability, market integrity and transparency. About 30 draft laws, aimed at establishing a legal framework for further reforming the Ukrainian financial sector, have been registered in the parliament.

Fourteen new laws have strengthened the independence and improved the internal operations of the **Central Bank** and its oversight of the banking system. Since 2014, around 80 banks have been removed from the market and further banking sector consolidation is envisaged.

In the non-banking sector, a draft law on **financial regulatory reform** is pending a second reading in the parliament. It will liquidate one of the regulators – the National Commission for State Regulation of Financial Services Markets – and allocate its responsibilities to other bodies. Draft Laws on **commercial accounting and audit** have been prepared but not adopted.

The government has expressed its commitment to strengthen **public finance management** (PFM) but few concrete steps have been taken so far according to a recent Public Expenditure and Financial Accountability (PEFA) assessment. An updated PFM strategy, which addresses several elements in the **budget process**, is currently being prepared. The government plans to strengthen the independence of the forecasting, introduce medium-term budgetary planning, ensure a match between sectoral plans of line ministries and their budgetary planning and provide more flexibility in the budget process.

Within the **tax reform** in 2015/16, the government introduced a number of measures to encourage businesses: it reduced the number of taxes from 22 to 11, decreased the number of tax reporting forms and administrative regulations and introduced unified and transparent rules for all commercial entities. The State Fiscal Service developed an Action Plan with focus on customer service. The government has embarked on an ambitious reform of **tax administration**. Recent reform steps include the introduction of electronic VAT administration, State Fiscal Service organizational reform and introduction of e-Cabinet services for taxpayers. In late 2015, the State Inspection Service was transformed into the **State Audit Service**, in order to comply

with international standards. Several issues still need to be addressed to complete the tax reform, i.a. the absence of a tax compliance strategy, quality of tax audits, tax debt collection and dispute resolution.

The new law on the **Accounting Chamber (ACU)** of August 2015 brings external auditing closer to international standards, but the mandate of the ACU is still limited and the parliament has not yet appointed the Members of the Board. Also, the ACU does not undertake its audits in full compliance with international standards.

In the area of **statistics**, the State Statistical Service of Ukraine (SSSU) has recently implemented a global assessment of the statistical system. A revised law on statistics aiming at increasing the professional independence of the SSSU is being considered by the parliament. Further changes to this law are necessary to align it with the European Statistics Code of Practice.

3.2 Trade and Trade-Related Matters

The provisional application of the **DCFTA** started on 1 January 2016. Despite difficult economic circumstances related to the conflict, total trade between the EU and Ukraine increased by 7.5 % in the period October 2015 – September 2016 compared to the same period in the previous year. The first Association Committee in Trade Configuration took place in April 2016. Further autonomous trade measures topping up certain concessions included in the DCFTA have been proposed by the Commission in September 2016. The proposal is currently under consideration by the European Parliament and the Council. Meanwhile, the EU has repeatedly called on Ukraine to repeal an export ban on raw wood which is incompatible with Ukraine's WTO and DCFTA commitments. So far the ban has remained in place.

A Strategy and Action Plan for the Development of the **Technical Regulation** System until 2020 adopted in August 2015 is being implemented. In view of the obligations stemming from the Technical Barriers to Trade (TBT) chapter of the DCFTA, in 2015/16 Ukraine revised and adopted a number of laws and implementing acts related to horizontal quality infrastructure and sectorial technical regulations. However, the sectoral legislation has not yet been checked against the relevant EU directives and not all of these legal acts are in force yet. The quality infrastructure was strengthened with the establishment of the National Standardisation Body in 2015, although this body is still not fully operative. The adoption of EU harmonised standards (approximately 3,500 in the course of 2015/16) is underway. The practice of mandatory pre-market certification of goods had been reduced and replaced by conformity assessment procedures according to EU practices.

On **Intellectual Property Rights (IPR)**, a formal decision was taken by the Cabinet of Ministers in June 2016 to establish a new national body to deal with IPR issues. In the framework of an EU twinning project, experts have drafted six pieces of legislation that still need to be adopted in order to meet Ukraine's commitments under the DCFTA and WTO. Concrete action to improve the protection and enforcement of IPR in Ukraine is yet to be taken.

Public procurement has been one of the flagship reforms of the current government. Ukraine joined the World Trade Organization Agreement on Government Procurement (WTO GPA) in 2016. A Public Procurement Reform Strategy (Roadmap) was adopted on 24 February 2016 to harmonise Ukrainian public procurement legislation with the EU acquis. A new Public Procurement law entered into force on 19 February 2016, regulating the transition of public procurement to an e-procurement system (ProZorro). As for legislative approximation, Ukraine

is following the timeline in the Roadmap. The introduction of ProZorro has allowed savings of public funds, increased transparency and reduced administrative burden on business.

Customs reform remains a priority in the context of general reform of the State Fiscal Service (SFS). Ukraine is working towards legislative approximation to the new EU Customs Code. A new Authorised Economic Operator legislation based on EU and World Customs Organisation standards has been considered by the parliament since June 2016. The EU supports the accession of Ukraine to the Convention on pan-Euro-Mediterranean preferential rules of origin; and assists in the preparation to accede to the Convention on a common transit procedure. The EU promotes the use of the new Customs Blueprints as reference guidelines in Ukraine's customs modernisation efforts

Some steps have been taken towards adopting restructuring plans for **State Owned Enterprises** and improving the framework for privatisation. Efforts have been made to improve transparency in this area and to adopt best practices, but the process is yet to be completed. Only one large-scale privatisation out of the authorities' ambitious privatisation programme has as yet been launched.

Ukraine and in particular its Anti-Monopoly Committee (AMCU) continue their efforts to align their **competition** framework with the EU as is required in the DCFTA. Merger thresholds have been adapted, a fines regulation has been published and rules on transparency for competition cases have been adopted. AMCU is also actively preparing the entry into force of the Ukrainian state aid law by mid-2017 by drafting secondary legislation and setting up a state aid registry

In February 2016, a comprehensive sectoral strategy for **sanitary and phytosanitary standards** (SPS) was adopted. In June, the strategy was complemented by a Work Plan. In April 2016, a new State Service for Food Safety and Consumer Protection (SSFSCP) was established. The corresponding Action Plan foresees over 40 legal documents for alignment with European acquis. Amendments to the Law on Animal Identification and Registration were adopted in September 2016 and draft laws on Feed Safety and Hygiene and on Food Information for Consumers were registered in the parliament. There are still SPS trade irritants that remain to be addressed by the Ukrainian authorities.

The "Single and Comprehensive Strategy and Action Plan for **Agriculture and Rural Development** in Ukraine 2020" was approved by the National Reforms Council in December 2015 and was presented to the Agrarian Committee of the parliament in January 2016. However, the framework law supporting the Strategy 2020 is yet to be tabled in the parliament. In the near term, the government plans to focus on land reform, privatisation of state owned enterprises, and agricultural state support. So far few concrete steps have been taken towards land reform. The parliament has extended by one year, to 1 January 2018, the moratorium on the sale of agricultural land. The Ministry of Agriculture is working to improve environmental practices in line with the obligations under the Association Agreement. Issues to be addressed remain with regard to sustainable management of forestry and fisheries resources as well as inspection and monitoring to reduce unregulated and illegal practices. Ukraine has increased its participation in regional cooperation on **fisheries** (the Black Sea Working Group of the General Fisheries Commission for the Mediterranean) and signalled its intention to participate in the regional cooperation project BlackSea4Fish.

4. Connectivity, Energy Efficiency, Climate Change, Environment and Civil Protection

The trilateral winter package agreed between Ukraine, the Russian Federation and the European Commission helped Ukraine to purchase sufficient **gas supply** for the winter 2015-16 and thus also to ensure smooth and reliable gas transit through Ukraine. Ukraine discontinued Russian gas

purchases in November 2015, having imported enough gas supply for the winter 2015-16. A **concept for the new Energy strategy**, drafted in cooperation with the European Commission, is pending adoption.

On 22 September 2016, a **Law on Energy and Utilities Regulator** was adopted and a draft **Electricity Market Law** passed the first reading in the parliament. A new **Gas Market Law**, adopted on 9 April 2015, entered into force on 1 October 2015. Many pieces of secondary legislation on gas were adopted at the end of 2015 and are being implemented. However, a number of secondary acts are still not fully in line with the EU *acquis*. **Gas prices** were brought to market levels earlier than foreseen in the agreement with the International Monetary Fund (IMF), which contributed to reducing gas consumption in Ukraine and a to reducing the overall budget deficit. In the context of the programme for electricity tariff increases for households, the third and the fourth stages out of the 5 semi-annual increases entered into force during 2016. An **unbundling plan** for the state-owned oil and gas company **Naftogaz** was approved by the government on 1 July 2016. To meet the requirements of the Third Energy Package, the plan stipulates the establishment of a new Transmission System Operator and a Storage System Operator.

In the field of **energy efficiency**, the law on the heat metering and billing, the law on energy performance in buildings as well the law on communal services are all pending approval by the parliament. A law on a National Energy Efficiency Fund for the renovation of residential buildings is being prepared by the government. The rules for the Fund have been developed with the involvement of the European Commission, Germany and the International Finance Corporation (IFC), which are also planning to support the Fund financially and with technical expertise when the legal framework is in place.

A New Safe Confinement was successfully slid over the destroyed 4th reactor of Chernobyl Nuclear Power Plant at the end of November 2016.

The Ukrainian government is preparing a comprehensive upgrade of the **National Transport Strategy**, to pave the way for harmonisation with EU legislation and help enhance connectivity through the trans-European transport network (TEN-T). Draft laws on railway and internal waterway transport aiming at market opening have not been adopted yet, while the law reforming the State Road Fund passed the first reading. A pilot project permitting cargo clearance from a single point of contact is now operational at Odesa port. A working arrangement between the European Aviation Safety Agency and the State Aviation Administration of Ukraine was signed in January 2016.

Ukraine ratified the Paris Agreement on **Climate Change** in September 2016 and has started to develop policies to introduce systems for monitoring, reporting and trading emissions. There is still no comprehensive policy to mitigate and adapt to climate change and sectoral climate policies and actions are still under development. Domestic policies are not yet aligned with EU legislation on emissions trading, substances that deplete the ozone layer and certain fluorinated greenhouse gases. Scalable action to introduce efficient and low-carbon technologies would be needed in order to reduce greenhouse gas emissions. EU assistance in this area continued to be provided through the regional ClimaEast project.

Ukraine is preparing amendments to its **National Environmental Strategy until 2020** and a National Environmental Action Plan. The law transposing the EU Water Framework Directive was adopted in October 2016. Approximation to the EU *acquis*, notably in the areas of waste and water, is in progress. On 4 October 2016, the parliament adopted laws on Environmental Impact

Assessment and on Strategic Environmental Assessment. However, the laws are currently subject to a veto by the Ukrainian president.

Regarding the digital economy and society, Ukraine strives to align its legislation with relevant EU acquis in order to benefit from the EU's **Digital Single Market (DSM)**. Ukraine's parliament is working on draft laws that seek to ensure a level playing field in the telecom market, including an independent regulator, protection of market players against discrimination and effective allocation and use of frequencies. Additionally, Ukraine has taken steps in order to strengthen the country's cyber resilience: a **cybersecurity Strategy** was adopted in February 2016 and a new cybersecurity law has passed the first reading in the parliament. In July 2016, Ukraine and the European Commission launched a discussion on the **Digital Community**, which aims to extend the benefits of the DSM to EU neighbours.

As regards **maritime affairs**, a high-level stakeholder conference took place in Odesa (14 and 15 June 2016) to promote further integration in the maritime domain.

Ukraine remains committed to reform its **civil protection administration**, in line with EU recommendations delivered by two successive Advisory Missions by the Commission in 2015 and 2016 and in the framework of the regional EU-funded flagship Initiative "Programme for Prevention, Preparedness and Response to Natural and Man-made Disasters in the Eastern Partnership Countries" (PPRD East 2).

5. Education, Research, Mobility and People to People

In the **education** sector, fundamental reforms are prepared with a new framework Law on education and the "New School" concept. Higher Education reforms are ongoing. The state programme "Youth of Ukraine" 2016-2020 was adopted on 18 February 2016. Ukraine has continued its active participation in the Erasmus+ programme.

A Long-term Strategy of Reforms on Ukrainian **Culture** was adopted on 1 February 2016. Ukraine joined the Creative Europe programme on 1 January 2015 and a Creative Europe Desk to inform and advise cultural and audio-visual professionals was established in summer 2016.

The Agreement for **scientific and technological cooperation associating Ukraine to the Horizon 2020 programme** entered into force in August 2015. The agreement associating Ukraine to the Euratom Research programme entered into force on 28 October 2016. A Peer Review of the Ukrainian research and innovation system is ongoing and its conclusions will be presented to Ukrainian authorities on 19 December 2016. In September 2016, the European Commission's Joint Research Centre signed a Research Framework Agreement with the National Academy of Sciences of Ukraine, aimed at strengthening scientific cooperation, in particular in the following areas: smart specialisation, the Danube Strategy, nuclear safety and security, remote sensing, food security and food safety, energy.

Concerning **employment and social policy**, regulatory steps were undertaken in 2016, for example on obligatory state pension insurance and uniform pension assessment principles. Amendments to the legislation on employment of persons with disability were submitted to parliament. In June 2016, Ukraine ratified the ILO Convention 102 on minimum standards of social security, which covers key areas in line with the priorities of the Decent Work Agenda for Ukraine for the period 2016-2019 (recently adopted by ILO and the Ukrainian government). Amendments to the current Labour Code, which explicitly prohibit discrimination on the basis of sexual orientation, entered into force in November 2015. However, the adoption of a new Labour Code in line with ILO recommendations, including the aforementioned prohibition, has been

pending for a decade. Youth unemployment is rising and stands at 22.4%. The activity and employment rates are both decreasing – the latter now at around 56%. Wage arrears and widespread informal employment remain largely unaddressed.

Following 2015 EU assessments, steps were taken to reform the public health system in line with EU norms, but these steps have not been implemented yet. A concept for a new system of **public health** and a strategy establishing the national blood services are pending approval of the government. In summer 2016, a new National Public Health Centre was registered, and a Director General appointed. In May 2016, a team of international experts concluded that the transmission of polio virus was likely interrupted, putting an end to the 2015 outbreak. Concerns remain about gaps that put Ukraine at high risk for new outbreaks. Corruption and poor governance in the health sector remains a problem to be addressed.

Concluding remarks

In 2015-16, Ukraine has undertaken in-depth structural reforms in some key sectors, in the context of political association and economic integration with the EU on the basis of the AA/DCFTA. It has also successfully addressed significant macroeconomic imbalances. Through policy dialogue and financial assistance, including in collaboration with international partners, the EU has supported measures aiming at improved governance, the fight against corruption, judiciary reform and public administration reform, including reform of civil service and service in local self-government bodies.

Reform in Ukraine is a long-term process looking to bring long-term results. As outlined in this report, many important reforms are ripe to move from the legislative and institutional phase to effective implementation, which will benefit Ukraine's citizens and contribute further to its political association and economic integration with the EU. Ukrainian civil society and other stakeholders have suggested that the EU and Ukraine should do more to communicate publicly, both in Ukraine and abroad, and explain the rationale for, and benefits of, the reforms undertaken by the government.