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## **JOINT STAFF WORKING PAPER**

### **Implementation of the European Neighbourhood Policy in 2010 Country Report : Ukraine**

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## JOINT STAFF WORKING PAPER

### Implementation of the European Neighbourhood Policy in 2010 Country Report : Ukraine

#### 1. OVERALL ASSESSMENT

Ukraine and the EU first established contractual relations in 1994 through a Partnership and Cooperation Agreement (PCA) which entered into force in 1998. On that basis, an EU-Ukraine Action Plan (AP) was adopted in February 2005 and progress in its implementation was monitored and reported on until November 2009, when it was replaced by the EU-Ukraine Association agenda. The Association agenda builds on the substantial progress made in negotiating the EU-Ukraine Association Agreement (AA). This Agreement is conceived by both parties as illustrating the most advanced and ambitious approach to the Eastern Partnership vision of association, including a Deep and Comprehensive Free Trade area (DCFTA) and a comprehensive programme of approximation to the EU *acquis*.

In 2010 an intensive and varied range of EU-Ukraine meetings took place, most formally at the level of the EU-Ukraine Summit, the Cooperation Council and the seven subcommittees. In addition progress in implementing the Association agenda was reviewed at the level of Joint Committee of Senior Officials. More broadly, Ukrainian authorities and civil society representatives participated actively in the multilateral framework of the Eastern Partnership, and contributed to the working platforms. On a bilateral basis, Ukraine and the EU also discussed institutional capacity building in the framework of the Eastern Partnership Comprehensive Institution Building Programme.

This document reports on the overall progress made in implementing the EU-Ukraine Association agenda between 1 January and 31 December 2010, although developments outside this period are also considered when deemed relevant. It should be noted that in addition and complementary to the Association agenda, the EU side provided Ukraine with a 'matrix' of reform priorities with a view to providing further guidance to Ukraine's reform efforts. Correspondingly the EU focused, in its highest-level dialogue with Ukraine, on a set of core 'reform priorities', such as an inclusive constitutional reform, electoral and judicial reform and energy sector reform.

This report effectively assesses progress made in preparing for the entry into force of the EU-Ukraine Association Agreement, since the Association Agenda is designed to pave the way for this. It is not a general review of the political and economic situation in Ukraine. For information on regional and multilateral sector processes, readers should refer to the sectoral report.

In 2010 Ukraine took positive steps to establish a framework for potential reforms, notably by bringing the IMF Standby Agreement back on track, adopting a Comprehensive Economic Programme (under the supervision of the Committee on Economic Reforms established by the Presidential decree of 17 March 2010) and achieving significant fiscal consolidation, with promises of more to come if tax and pension reforms could be successfully implemented. The existence of a more stable political situation suggested that, with the right motivation and will,

the government could take forward a set of core reforms with the potential to bring the country closer to European standards and values as enshrined in the Association Agenda.

Particular achievements in 2010 include the adoption of a Public Procurement Law which should play an important role in curbing corruption and in increasing competitiveness, and the adoption of a Gas Sector reform law which paved the way for Ukraine's accession to the Energy Community in February 2011, providing significant potential to modernise and restructure its energy industries and infrastructure, and with potentially very large economic benefits.

These reforms go in the right direction and have been bolstered by EU technical support. Their success rests on implementing regulations and measures, which will need to be monitored closely if these advances are to be consolidated. In the case of public procurement, for example, respect for international norms is needed in all implementing regulations and amendments if there is to be no further disruption to the substantial portion of EU assistance channeled through budget support.

Economic reforms did not extend to all areas: perceptions of the business and investment climate continued to be adversely affected by a series of obstacles and irritants such as corruption, non-transparent tax (particularly Value Added Tax) and customs regimes, and the absence of an independent judiciary and a reliable legal environment.

As regards the political domain, there are fewer positive signs. Ukraine has experienced a deterioration of respect for fundamental freedoms notably as regards the freedom of the media, freedom of assembly and democratic standards. Regarding democracy in particular, after the generally good conduct of presidential elections at the beginning of the year, the local elections in October were heavily criticised by international and domestic observers, in particular as regards the legal framework and the poor administration of the electoral process. The adoption of an election code which meets European standards and which is supported across the main political groupings is crucial to the democratic legitimacy of future elections in Ukraine. This issue is at the top of the EU's agenda in Ukraine.

An Action Plan on Visa Liberalisation was announced at the EU-Ukraine Summit in November 2010. This Action Plan gives rise to a comprehensive range of legislative and other measures linked to verifiable benchmarks, and its implementation has started.

A comprehensive reform of the judiciary and fight against corruption remain key challenges. Respect for rule of law in criminal investigations and prosecutions, including the principle of a fair, impartial and independent legal process, must be guaranteed in order to ensure that the criminal law is not used for political ends. It is important to ensure that the process of Constitutional reform is transparent and inclusive. As regards the EU-Ukraine Association Agreement, 2010 saw further substantial progress in negotiations on Political Dialogue and Reform, Political Association, and Cooperation and Convergence in the Field of Foreign and Security Policy. Progress was also made on Institutional Provisions, General and Final Provisions and on economic and sector cooperation issues, which have been provisionally closed. The Justice, Freedom and Security chapter is close to final agreement. Negotiations on the DCFTA part of the agreement continue and both sides have reiterated their intention to conclude these negotiations in 2011.

## 2. POLITICAL DIALOGUE AND REFORM

The EU and Ukraine maintained regular political dialogue during the year, notably at the EU-Ukraine Summit and the Cooperation Council. In addition, political dialogue meetings took place between the Ukrainian government and the EU Political and Security Committee, the Council Working Group on Eastern Europe and Central Asia, the EU Foreign Ministers and the EU Political Directors. The EU-Ukraine Parliamentary Cooperation Committee met in both Brussels and Kyiv. The latter included a visit to Odessa.

### *Democracy and rule of law*

No progress was noted in the reporting period with respect to promoting an inclusive **constitutional reform**. The National Constitutional Council, set up in 2007 to work on drafting a new Constitution, was disbanded in April 2010. In September 2010, following an appeal by 252 MPs from the ruling coalition, the Constitutional Court ruled that the constitutional amendments of December 2004 had been adopted in violation of the relevant constitutional procedure. On these legal grounds, the 1996 Constitution has been reinstated. Subsequently, the parliament adopted a new law on the Cabinet of Ministers as well as amendments to the parliamentary Rules of Procedure and to 32 other laws, aimed at bringing the legal framework in line with the 1996 Constitution. Experts consider that a number of these amendments gave even wider powers to the President and further weakened parliamentary control over the executive.

In December 2010, the Venice Commission issued an opinion which concluded that the 1996 Constitution does not provide sufficient checks and balances and encouraged the Ukrainian authorities to engage in a comprehensive process of constitutional reform based on established procedures and involving all the relevant players.

In November 2010, the President established a Commission for the Strengthening of Democracy and Rule of Law which was tasked “to unite efforts of the state authorities, political parties, civil society organisations, other institutions of the civil society for the strengthening of democracy and rule of law”. Its main task was to follow up on constitutional amendments (in particular those required to further reform the judiciary and the prosecutor’s office), the Venice Commission recommendations and the fulfilment of Ukraine’s obligations before the Council of Europe (CoE). Just after the reporting period, the President set up a special working group to prepare the concept of the future Constitutional Assembly that will draft amendments to the Constitution.

As reported in the previous year, the overall conduct of the presidential **elections** in early 2010 was positively assessed by the International Election Observation Mission. At the same time, the practice of amending the electoral framework in the middle of the electoral process was criticised. Local elections were postponed from spring to October 2010. In July 2010 the parliament adopted a new version of the law on local elections, which was widely criticised by local and international election experts. In August, at an extraordinary plenary session, the parliament adopted additional amendments to that law. These amendments addressed a number of issues but left some important ones untouched. Most independent domestic and international election observers criticised the conduct of the local elections as being a step backwards compared with other post-2005 elections. The Election Observation Mission of the Congress of Local and Regional authorities of the CoE highlighted a number of weaknesses and noted in particular that the local elections were ‘not of a standard [we would have] wished to see’ as Ukraine ‘had already shown it can do better’.

In November 2010, the President set up a working group to improve the electoral legislation with the aim of bringing it into line with international democratic standards and speeding up its codification. Since 2002, the Organisation for the Security and Cooperation in Europe — Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has recommended the adoption of a single election code. For its part the EU has funded the drafting of an election code (drawing on expertise from the OSCE/ODIHR), which has been registered in parliament and has been positively assessed by the Venice Commission. However, the working group has not used this draft election code as a source document for preparing future draft legislation. The working group did not include, as full-fledged members, either independent experts or representatives of civil society organisations, nor does it include a significant number of representatives of the opposition. Subsequent to the reporting period, assurances have been given to the EU concerning the broadening of representation in the working group, and this aspect will be closely followed in 2011.

The reinstatement of the 1996 Constitution has led to uncertainty regarding the date of parliamentary elections. In February 2011, just after the reporting period, the parliament adopted a series of constitutional amendments proposed by the governing coalition whereby the term of office of the national parliament and of local government councils is extended from four to five years. The draft amendments also envisage that the next parliamentary elections should take place in October 2012 and the next presidential elections in March 2015. Some provisions of the current legislation on political parties continue to contradict other legislative provisions as well as the provisions of the European Convention on Human Rights and European standards in the field of political parties. The dependence of political parties on private funding is a problem which remains to be solved.

The legislation on **judicial reform** was rapidly drawn up by the new presidential administration and adopted in July 2010, without waiting for the opinion of the VC. In October, the Venice Commission issued its opinion on the law on the Judicial System and the Status of Judges. The opinion acknowledged some progress in a limited number of areas but contained strong criticism of a number of points, notably the risk that the executive would have greater control over the judiciary. The law weakens the powers of the Supreme Court and at the same time gives the High Council of Justice more authority to appoint and dismiss judges. These shortcomings need to be addressed urgently. A start was made when, in December, the removal of the head of Ukraine's Internal Security Service from membership of the High Council of Justice: this action eliminated an important potential conflict of interest and a risk for the independence of the judiciary. No progress can be reported on the adoption of a draft Code of Criminal Procedure or on the law reforming the Prosecutor's Office, which passed in first readings in the parliament in 2009. Similarly no progress was made in reforming the Bar and setting up a professional Bar Association. At the end of the year a number of criminal investigations were initiated against former government officials — including the former Prime Minister. These actions have drawn criticism regarding the potential use of the criminal justice system for political purposes.

With regard to the **fight against corruption**, no progress was achieved in 2010. Regrettably, in December, parliament abolished the anti-corruption package of legislation and other measures which had been adopted in 2009 but never implemented. On the same day, the parliament approved in first reading a draft law on the principles of preventing and combating corruption. Shortly after the reporting period, the commission in charge of fighting corruption was abolished.

Only limited progress can be reported on **strengthening local self-government**. In September 2010, amendments were adopted to the Law on the City of Kyiv, separating the post of the elected Mayor from the post of the Head of the City State Administration. The latter is appointed directly by the President and holds the main executive powers.

With regard to **public administration reform**, work continued on drafting framework legislation on the civil service, ministries and central executive bodies, but without presenting a comprehensive strategy for reform in this area. In October 2010 the president announced a far-reaching re-structuring of the central executive apparatus. This announcement was followed in December by decisions to reduce radically the number of ministries and executive agencies and their respective staff and to recast a number of government agencies as ‘central executive bodies’. While these reforms have the potential to increase efficiency by reducing the levels of bureaucratic control in Ukraine, it is important to ensure they are counterbalanced by appropriate inter-institutional checks and balances.

The **Ombudsman’s** activities need further support to strengthen the independence and effectiveness of the office and to raise its profile. In August 2010 a position of **Ombudsman for Children’s Rights** was created, as a deputy to the Parliamentary Ombudsman for Human Rights.

### *Human rights and fundamental freedoms*

A deteriorating situation was observed in the field of **human rights, fundamental freedoms and the rule of law**. The EU expressed concern over the deteriorating respect for fundamental freedoms and democratic principles in Ukraine. Such trends were also criticised by the OSCE Representative on Freedom of the Media, in the October resolution on Ukraine issued by the Parliamentary Assembly of the CoE and in statements from international and domestic human rights organisations. There were reported cases of harassment and prosecution of human rights activists.

Just after the reporting period, in January 2011, the parliament adopted the law on access to public information which was welcomed by the OSCE Representative on Freedom of the Media. Other commitments related to laws on public service broadcasting, media ownership transparency and privatization of print media, and the abolition of the “public morality law” remain unfulfilled.

As regards **media freedom**, during the reporting period, the number of cases of violence against and intimidation of journalists increased, and little progress was reported in investigating such cases. Increasingly frequent controls were reportedly carried out at media premises both in Kyiv and the regions. The investigation into the disappearance of a Kharkiv journalist Vasyl Klymentiyev in August has not been completed.

Implementation of the judgments of the **European Court of Human Rights** remains an area of concern. The high number of pending cases against Ukraine reflect structural problems within the judiciary system in dealing with human rights issues.

Civil society organisations and opposition parties have complained about restrictions on the **freedom of assembly**. In particular, opposition parties complained that the police gave preferential treatment to supporters of the Party of Regions. People who took part in a peaceful demonstration against the new Tax Code are being prosecuted for damaging the pavement of the square where they gathered. In June 2010 the parliament adopted, at first

reading, a draft law on peaceful assemblies which was criticised by some civil society organisations for imposing restrictions on the freedom of assembly. In October 2010 the Venice Commission welcomed the new draft as an improvement over the previous one but identified a number of issues still to be addressed to make it compliant with European and international standards. No progress can be reported regarding the adoption of a new law on civil society organisations, despite numerous debates on the issue. The existing law, adopted in 1992, has a number of shortcomings.

No progress was reported on the adoption of comprehensive **anti-discrimination** legislation, as recommended by UN and CoE monitoring bodies.

As regards respect for the rights of persons belonging to **national minorities**, there continued to be sporadic reports of incidents of anti-Semitism, including the use of anti-Semitic messages by one of the candidates in the presidential elections. Other national minorities continued to be the object of discrimination and racism including, in particular, the Roma and the Crimean Tatar communities. Further efforts are needed to increase awareness of racial discrimination and to fight it. In February 2010, an Action Plan for 2010-2012 was adopted by an Inter-agency Working Group set up to tackle xenophobia, interethnic and racial intolerance. In November, people watching a film on the Transgender Day of Remembrance were attacked by masked men. The local police classified the attack as ‘hooliganism’ but the victims were pressing the police to register the acts as ‘hate crime’. The event was followed by an EU demarche. No steps have been taken to develop a modern legal framework on ensuring the rights of minorities, and continuous efforts are needed to ensure implementation of the CoE Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. The ministry of education and science reversed the decision of the previous government to carry out school leaving tests only in Ukrainian and re-introduced the option of pupils taking these tests in national minority languages. Just after the reporting period, Ukraine submitted a draft law on languages for the review of the Venice Commission.

Poor conditions in detention facilities leading to cases of **torture and ill-treatment** remained serious, and systemic human rights violations by law-enforcement agencies continue to be reported. Impunity in this regard is a matter of concern. The ministry of interior’s department on Human Rights Monitoring, whose job it was to monitor respect for human rights within the police force, was abolished despite the positive results achieved in 2009. A National Preventive Mechanism has yet to be established in spite of the September 2007 deadline, which was set when Ukraine ratified the Optional Protocol to the UN Convention against Torture in 2006.

Institutional capacity in implementing **equal treatment** policies has improved and some progress can be reported. A department for the Family and Gender Policy was established within the ministry for family, youth and sport and an inter-ministerial commission was set up to address claims of gender discrimination. In the course of the year, the authorities launched a substantial raft of gender initiatives and coordination exercises among executive agencies in order to implement national gender policies. Domestic violence remains at high levels.

In March 2010, the UN Convention on the **Rights of Persons with Disabilities** and its Optional Protocol came into force. Progress has been achieved especially in ensuring that national legislation complies with the Convention and its Optional Protocol. However, overall progress on access to social services for the disabled remained uneven throughout the country, as it depends on effective decisions and policies at local level.

Some progress has been achieved in the area of **children's rights**. The national legislation has been brought into line with the UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (UN CRC OPSC), as was recommended by the UN Committee on the Rights of the Child in 2007. In January 2010, Ukraine adopted a law to combat child pornography. For its part, the EU helped organise a series of regional seminars aimed at better implementing The Hague Convention on the Civil Aspects of International Child Abduction.

Progress was made in the area of **trade union rights and core labour standards**: in November 2010 the government, trade unions and employers signed a new general agreement which will apply for the next two years (2011 -2012). The agreement is intended to increase labour productivity, create new jobs and raise the average salary by 17.8% in 2010, by 15% in 2011 and by 16% in 2016. The government undertook to create an advisory tri-partite committee working with central executive bodies.

***Regional and international issues, cooperation on foreign and security policy, WMD non-proliferation and disarmament, conflict prevention and crisis management***

Ukraine continued to cooperate actively with the EU on regional and international issues, and aligned itself with 26 out of 44 CFSP declarations in which it was invited to take part.

Ukraine's participation in the EU's 'Atalanta' naval operation was initiated, building on the positive experience of its participation in EU operations in the Balkans. In November 2010 the EU and Ukraine reached agreement on financing activities under the project on 'Bio-safety and bio-security improvement at the Ukrainian anti-plague station (UAPS) in Simferopol'.

Ukraine cooperated constructively with the EU on all questions related to the **Transnistria** settlement efforts. It took part in informal meetings of the so-called '5+2' format.

No progress was made on ratifying or implementation of the Rome Statute of the **International Criminal Court**. For the EU, this remains a core element for the foreign policy titles of the Association Agreement, and will therefore be pursued in the negotiations.

Ukraine and the Republic of Moldova failed to find a negotiated solution to their few remaining disagreements over the demarcation of the northern and southern segments of their common border. More effort and attention to this issue are needed in the ongoing visa dialogues between the two countries and the EU.

***EU Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM)***

Ukraine continued to be fully committed to, and participated constructively in, the work of EU Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM). With EUBAM support, the professional capacities of the Ukrainian customs and border guard services were further enhanced, as was inter-agency cooperation within Ukraine and between the Republic of Moldova and Ukraine. EUBAM supported the demarcation of the central (Transnistrian) segment of the Moldovan-Ukrainian state border on the Ukrainian side.

**3. ECONOMIC AND SOCIAL REFORM**

***Macroeconomic framework and functioning market economy***



Ukraine was among the countries in the EU neighbourhood that were hardest hit by the global economic and financial crisis. However, in 2010 Ukraine's economic fortunes improved in parallel with the rebound in other regions and in the context of a more stable domestic political situation following the presidential election and the subsequent formation of a majority government. Re-establishing a Stabilisation Agreement with the IMF and agreeing on an Economic Reform Programme, under the Supervision of the President's Committee on Economic Reforms, were important achievements in 2010.

The Ukrainian recovery was initially export-led, but spread to consumer demand over the course of 2010. Investment also recovered in 2010, albeit only in the second half of the year and relatively timidly, considering the favourable base effect stemming from its drastic contraction during the crisis. This in part reflected problems in the operating environment for businesses, as well as companies' continued difficulties with access to finance (loans by domestic banks to non financial companies barely increased in real terms in 2010).

On the external front, the positive adjustment of the current account that had resulted from the crisis-related contraction of imports during 2009 continued through the first half of 2010, before starting to reverse as domestic demand picked up. The current account slipped back into deficit. The full year current-account deficit is estimated at USD 2.9 billion (2,1 % of GDP).

Nonetheless, 2010 was a successful year overall for Ukraine in terms of external economic stabilisation. The country was able to tap various sources of external financing. Notably, this included a return to capital markets with a combined USD 2.5 billion of sovereign Eurobonds issued in September and December 2010. The government also secured a USD 2 billion revolving loan from a Russian state-owned bank and, most importantly, a new USD 15 billion Stand-by Arrangement (SBA) with the IMF. This began in July 2010 and runs until the end of 2012. (The previous SBA stalled in November 2009 over Ukraine's lack of compliance with agreed programme parameters). Meanwhile, negotiations between Ukraine and the EU on a macro-financial assistance loan of EUR 610 million were launched, but not concluded, in 2010.

The combination of multilateral, bilateral and private external borrowing by the government, along with a gradual return of external lending to private borrowers in Ukraine, allowed the National Bank of Ukraine (NBU) to replenish its foreign exchange reserves from a low of USD 24.1 billion (EUR 17.6 billion.) in February 2010 to USD 34.6 billion (EUR 26.2 billion) at year-end.

Domestically, the NBU managed to control inflation relatively well in 2010. Following three years of double-digit increases in consumer prices, the year-average headline inflation in 2010 came to 9.4%. Core inflation was slightly lower, at 8.6%, reflecting the fact that part of the price pressure stemmed from increases in excise taxes and administered prices, notably for gas and communal heating services. These were implemented in line with the reform programme agreed between Ukraine and the IMF with a view to gradually bringing retail energy prices to cost recovery levels, thereby reducing the need for state transfers to Naftogaz. In its fiscal policy, Ukraine broadly followed the consolidation course agreed with the IMF under the July 2010 SBA. At just over 5 % of GDP, the general government deficit was even lower than the initial IMF programme target, although this positive development was offset by the higher-than-mandated deficit of Naftogaz, which occurred despite the gas price hikes implemented under the programme.

In 2010 Ukraine adopted a new Budget Code, on the basis of which the authorities drew up a 2011 budget in line with the consolidation benchmarks agreed with the IMF. Then, in December 2010, the IMF completed its first programme review under the SBA and released the second tranche of its programmed financial support of USD 1.5 billion (or EUR 1.2 billion).

### *Employment and social policy*

The economic recovery positively influenced the **employment** situation. According to official labour market figures, unemployment declined from 9.6% in 2009 to 8.8% in 2010, while the number of jobs rose slightly. However the informal sector still represents a substantial share of employment. At the end of 2010, 564 000 persons were officially registered as unemployed, of which 55% were women and 42% young job seekers. The 2010 budget specifically supported, for the first time, young job seekers and people looking for their first job. Some 323 000 people benefited from this. In September 2010 the Cabinet of Ministers approved a resolution on the national employment policy for the period 2010-2011.

Under the state insurance scheme, the State Employment Services (SES) supported people who had lost their job and assisted those who were looking for a new job. In 2010 the SES opened seven vocational educational training centres to train and retrain people according to the demands of the labour market, and there are plans to open ten more. The government drafted a decree 'On rules governing agreements concluded by the economic operators concerning training, retraining and better qualifications for workers'. The draft law on a national qualification system, submitted to the parliament in May 2010, uses the SES labour market analysis as the basis for the annual educational plan to be implemented by the ministry of education and science and other ministries.

As regards social protection and the fight against **poverty**, Ukraine prepared amendments to laws on social protection and the rehabilitation of disabled people. The draft amendments promoted equal employment opportunities, the fight against discrimination and barrier-free access for the disabled. The government continued to support persons with difficult living conditions and who face difficulties competing on the labour market. The minimum salary rose slowly during 2010, reaching 922 UAH (or EUR 88) per month in December. Pensions were also increased during the reporting period. The concept for reforming and improving the delivery of social services is under discussion at the ministry of labour and social policy.

In June 2010, the Committee for Economic Reforms, operating under the President, endorsed a draft **social protection** reform programme. This aims to give poor people better access to the social protection system and ensure that social assistance is targeted more effectively. Only 56.8% of those living below the absolute poverty line currently receive social assistance and only 23% of social transfers reach the poor.

Ukraine adopted the law on **social dialogue**, which was promulgated by the President in January 2011. The law is expected to improve the institutional framework and the functioning of social dialogue.

No progress can be reported regarding the adoption of the long-awaited amended Labour Code. Concerns were expressed by the ILO on the non conformity of certain provisions with its basic standards, notably regarding the right to strike.

Ukraine signed international agreements on mutual employment with Latvia, Lithuania, Poland and Portugal and on mutual social protection with Bulgaria, Estonia, Spain, Latvia, Lithuania, Slovakia and Czech Republic.

In the area of **agriculture**, in June 2010, the ministry of agrarian policy issued an instruction on a departmental programme for the socio-economic development of rural communities.

In order to improve the competitiveness of agricultural production, as well as quality schemes, the ministry established the Agricultural Wholesale Markets Development Group and organised an International Agricultural Wholesale Market Investor Forum with the participation of experts and representatives from EU member states. During the reporting period Ukraine adopted the law on the ‘Wholesale Markets of Agricultural Products’.

In the field of **regional policy** dialogue changes first in the government and then in ministerial structures meant that no progress was made in implementing the agreed work plan for the Memorandum of Understanding on Regional Policy dialogue signed in July 2009, other than the launching of an OECD Territorial Review. When ministerial structures will be finalised, the Regional Policy dialogue and implementation of a revised programme will be continued as of 2011.

#### **4. TRADE-RELATED ISSUES, MARKET AND REGULATORY REFORM**

During the reporting period, bilateral **trade** between Ukraine and the EU rebounded, although total trade did not reach its 2008 level. EU exports to Ukraine increased by 24.5 % compared to 2009 and Ukraine’s exports to the EU increased by 43.4 %. Five rounds of negotiations for a EU-Ukraine DCFTA were held during the reporting period.

There was very limited progress on implementing the **customs**-related priorities of the Association agenda. Customs procedures are being computerised, but the risk-based customs control system still needs to be substantially upgraded. An updated version of the harmonised system for the classification of goods (HS) was adopted in January 2011. . The State Customs Service of Ukraine (SCSU) took preparatory steps to join the common transit system. Preparations are under way for special customs controls during the EURO 2012 football championship, and in particular for action to protect intellectual property rights. Further steps are needed to tackle the problems arising from cumbersome, bureaucratic and restrictive customs controls . The procedures for verifying customs valuation are still not in line with World Trade Organisation (WTO) rules, as transaction values are routinely questioned and minimum prices arbitrarily used. Integrity remains an area of serious concern.

On **free movement of goods and technical regulations**, in May 2010 the government adopted a decree ‘on approving the plan for priority measures regarding the reform of the system of technical regulation’. In December 2010 the President signed the Laws on Market Surveillance and General Product Safety. A draft law on ‘liability for damage rendered by the defect of a product’ was submitted to Parliament. Under the administrative reform announced by the President in December, the State Committee on Technical Regulation and Consumer Policy (DSSU) would be reorganised as the State Service on Technical Regulation. It is not clear whether the reform will address the long-standing institutional challenges in the Ukrainian system of technical regulation.

There are concerns over measures relating to the **export of grain**. The introduction of additional grain quality checks by Ukrainian customs and the quotas for grain exports imposed in October by the Ukrainian government go against the spirit of trade provisions in the PCA. They also raise serious concerns in terms of WTO compatibility.

In the area of **establishment and company law**, the Parliament adopted a law on licensing. This law clarifies which types of economic activities are subject to licensing procedures. The Parliament also adopted two laws on the state registration process — one concerning the registration of legal entities and the other relating to plans for an electronic registration system.

Ukraine continued gradually bringing its **sanitary and phyto-sanitary (SPS)** standards into line with the EU's, and there was progress on the SPS negotiations for the DCFTA. In July 2010, Ukraine adopted rules on the frequency of veterinary-sanitary inspections at enterprises, applying strengthened hygiene rules based on the Hazard Analysis Critical Control Point (HACCP) system. Ukraine established a working group that started work on reforming the food safety inspection system on the basis EU standards. It further modernised laboratories and trained SPS staff. In 2010, the European Commission's Food and Veterinary Office (FVO) carried out four inspection visits. Two missions in the poultry sector concerned, respectively, animal health issues and animal production. The other missions focused on the dairy sector and on checking for residues and contaminants in live animals and animal products, including checks on veterinary medicinal products. In August 2010, the EU's veterinary emergency team carried out a mission to help Ukraine develop control and eradication measures for African swine fever. Additional attention should be paid to transparency when amending or proposing legislation. The new procedure for authorising imports of animal products deserves special attention, as does the draft legislation on water and on the certification of meat, dairy and poultry products.

Negotiations on **services** continued in the context of the overall DCFTA negotiations.

As regards **financial services**, Ukraine is recovering from the global financial crisis, although the banking sector in Ukraine remains fragile. Financial sector reforms are focused on ensuring an adequate level of capitalisation and strengthening the independence of the National Bank of Ukraine (NBU). In 2010, the financial sector regulators developed several concept papers and actions plans for prudential supervision, insurance, implementing International Financial Reporting Standards (IFRS) in non-bank financial institutions, protecting consumers of financial services and developing credit cooperation systems. In November 2010, a draft law amending the existing Law on Financial Services Market was submitted to the Cabinet of Ministers. It aims to establish the legal framework for a unified public financial policy on financial services, to strengthen the coordination between and accountability of financial sector regulators and to strengthen their operational independence.

Insurance markets remain problematic in Ukraine. As part of the President's reform plans, Ukraine decided to draft a new insurance law in 2011 in order to bring Ukrainian legislation into line with Solvency II requirements.

In the field of **accounting**, banking institutions are legally required to issue IFRS statements, but not all of them have complied. The mandatory use of IFRS for all banking institutions by 2011 is a condition of the IMF Stand-By agreement. Legislative and non-legislative preparatory work is under way to extend IFRS reporting to non-banking financial institutions.

No progress can be reported in the field of **audit and accounting**.

Ukraine and the IMF assessed regulatory restrictions to the **free movement of capital**. In October 2010, the NBU re-instated the requirement for banks to deposit there for six months 20% of the foreign currency credits or deposits received from non-residents.

The Ukrainian **business and investment climate** remains unstable, reflecting unpredictable and non-transparent decision-making by the authorities and the economic operators and lack of trust in the judiciary. Controversies between the business community and the government arose over the issuance of VAT bonds and the new proposed Tax Code (*see below*). Ukraine's failure to respect WTO rules on customs valuation has created considerable problems for European companies across various sectors throughout 2010, contributing to the perception of a deteriorating business climate. A study ordered by the European Business Association indicates that the apparent stability resulting from the presidential elections makes Ukraine more attractive for investment, though this is mitigated by the negative perceptions of increased government and customs interference in business, worsened corruption and lack of progress with court system reform.

### ***Other key areas***

Concerns remain in the **taxation** area. In particular, tax legislation and the functioning of the administration are not fully in line with the principles of good governance and fair tax competition. A final, comprehensive strategic plan for tax administration is still lacking. On 2 December, the parliament approved the Tax Code incorporating presidential amendments. The revised law integrates various earlier laws and regulations in a single document, keeps intact the existing simplified taxation regime for individual entrepreneurs and limits the powers tax authorities can exercise *vis-à-vis* business, with the aim of rectifying some problematic issues. Implementation of the new code will require a close monitoring, especially as regards the application of fines and fees for tax violations, the registration of newly-established entities, the taxation of intermediaries and the mechanism for comparing the value of products.

Indirect taxation has been a focus of interest during 2010. The government made an effort to settle VAT refund arrears by the end of 2010, issuing VAT bonds in August with a face value of UAH 16.4 billion (EUR 1.44 billion) or 1.6% of GDP. This measure cleared a large part of the arrears that the state had built up on VAT refunds to companies. Nevertheless, it was controversial within the business community, both domestically and abroad, as companies felt compelled to register (seeing the bond scheme as the only way of being paid at all), even though the bonds offered a coupon inferior to market yields from comparable government bonds. Indeed, companies in need of cash for their operations had to sell the bonds at a discount of reportedly 20-30% of face value. There were also complaints about the preferential treatment of companies with close ties to the authorities, while other enterprises reported that part of their VAT refund claims were not recognised and remained unpaid.

According to the new Code, compliant taxpayers will, from March 2011, be eligible for automatic VAT refunds aimed at simplifying the refund procedures and making them more transparent. The maximum periods for VAT refunds under a regular system have been established. Some of the compliance criteria for automatic VAT refunds cause concern.

In the field of **competition policy**, two draft laws had their first reading in parliament — one raising the notification thresholds for concentrations and the other introducing criminal

liability for serious competition infringements. A third draft law under consideration aims to increase the powers of the Anti-Monopoly Committee to collect evidence in investigations. Steps towards better transparency are also being taken with the publication of decisions online, open hearings and improved access to documents. Ukraine has no law regulating **state aid**, but in early 2010 the government issued a decree to increase transparency and reform the concept of state aid.

Ukraine reinforced its international commitments in the field of **intellectual property rights (IPR)** with the entry into force of the Singapore Treaty and the Strasbourg Agreement. Authorities continued their *ex officio* actions, carrying out a number of seizures, and 50 criminal responsibility court cases were opened in 2010. Nevertheless, pirated and counterfeit goods remain widespread. At 85%, Ukraine shares 13<sup>th</sup> place in an independent expert organisation's ranking of the countries with highest prevalence of software piracy.

A new law on **public procurement** came into force on 30 June 2010. Among other things, it set up the Anti-Monopoly Committee as the new, independent review body providing remedies and review procedures which are now closer to EU standards. Further legislative proposals in line with European and international standards were also prepared in 2010 but have yet to be adopted. In addition, legislative amendments giving rise to possible exclusions from public tendering were a source of concern in early 2011. This influenced the overall assessment of public financial management in Ukraine, so that disbursements from sectoral budget support operations were suspended.

In the framework of a twinning programme, the State **Statistics** Committee of Ukraine (SSCU) assessed its own work in the light of the European Statistics Code of Practice and found its activity to be in line with international practice. Improvement of methodology continued. Ukrainian experts met their Polish counterparts to compare trade data and identified possible reasons for discrepancies. In August 2010, SSCU signed a protocol with the customs authorities to obtain more complete information on cargo declarations with a view to improving trade statistics.

On **enterprise policy**, there were several initiatives in support of Small and Medium-sized Enterprises (SMEs) in 2010. The state registry for companies is being simplified, as are checks on businesses. A draft law on bankruptcy and licensing is before Parliament. In May 2010, the State Committee of Ukraine for Regulatory Policy and Entrepreneurship prepared the presidential ordinance necessary for Ukraine to take part in the European Small Business Act initiative.

The government cancelled the planned draft law on **public internal financial control**, opting instead to widen the scope of the Budget Law to facilitate the development of internal audit.

With regard to **external audit**, a Peer Review with the support of SIGMA<sup>1</sup> took place in 2010, providing a basis for future policy decision-making. As in 2009, there is still a need for closer cooperation between Ministries and state agencies to prevent fraud and serious irregularities.

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<sup>1</sup> Sigma (Support for improvement in Governance and Management) is a joint initiative of the OECD and the European Union, principally financed by the EU.

## 5. COOPERATION ON JUSTICE, FREEDOM AND SECURITY

In the field of **mobility**, an Action Plan towards visa liberalisation was announced at the EU-Ukraine Summit in November 2010. The implementation of the Visa Facilitation and Readmission Agreements with Ukraine has continued. The Commission has adopted in October 2010 draft negotiating directives for the renegotiation of the Visa Facilitation Agreement in order to align it with the new Visa Code and to introduce further facilitations. The negotiating directives were approved by the Council on in April 2011.

The State Border Guard Service pursued **border management** reforms in line with the targets of the 2015 plan in terms of infrastructure, career development and personnel training. In May 2010, it signed an 18-month cooperation agreement with FRONTEX covering risk analysis, joint operations and management. In October 2010, Ukraine adopted an Integrated Border Management Concept followed by an Action Plan. Even closer cooperation is still needed between the State Border Guard Service and the Customs Service to optimise information exchange at all operational levels. In the framework of Ukraine's preparations to co-host the 2012 European Football Championship, an EU-funded twinning project on public order and crowd control completed its activities in March and a security meeting was held with Poland in February 2010.

Ukraine continued discussions on **border demarcation** with the Republic of Moldova under the auspices of the EUBAM, but ongoing tensions concerning in particular the region of Palanca continue to have a negative impact on regional security. A Common Border Security Assessment Report (CBSAR) is issued jointly by both countries every month and a customs data exchange (PAIES) is in place.

Important shortcomings in the field of **migration and asylum** remain both in the legislation and in its implementation. Ukraine has to improve substantially its refugee protection and asylum system. Ukraine still does not have appropriate asylum legislation in place and recent administrative changes regarding the asylum authority contributed to the increase of the backlog in dealing with asylum requests. The rights of recognized refugees are not respected (i.e. housing, education, access to the labour market).

Ukraine continued to fight against **organised crime**, implementing its obligations under the 2003 United Nations Convention on Trans-national Organised Crime through regional cooperation to tackle the trafficking of persons and the smuggling of migrants. However, Ukraine's capacity to tackle organised crime continued to suffer from institutional fragmentation. A national strategy and action plan are urgently required to determine the powers and responsibilities of the various law enforcement agencies and to ensure that they work together. As in 2009, the Third Protocol on the Illicit Manufacturing and Trafficking of Firearms, Their Parts, Components and Ammunition remains unsigned.

In September 2010, Ukraine ratified the CoE Convention on Action against **Trafficking in Human Beings**. The various law-enforcement agencies are still discussing a draft law that would provide more severe penalties for trafficking crimes and give victims greater protection. Ukraine continued cooperating with EU member states and Interpol on technical information exchanges. Cooperation with civil society also continued apace. Further efforts are needed to combat internal trafficking and to develop protection and rehabilitation measures for victims of forced prostitution and labour exploitation particularly in the construction and agriculture sectors

In January 2010 the ministry of health signed a Memorandum of Understanding with the European Monitoring Centre for **Drugs** and Drug Addiction (EMCDDA) and in September it adopted a National Drugs Strategy for 2010-15. Meanwhile, cooperation continued with civil society organisations on demand reduction. There is an urgent need for better financing of drug monitoring and for more reliable information on drug prevalence, particularly among youth and other high-risk groups. The absence of a drug-substitution programme within prisons and detention facilities is a cause for concern. It remains crucial for the Ukrainian authorities to work systematically with civil society groups on developing an integrated approach to this problem. Ukraine took part in the ENP regional seminar on the EU drug monitoring system organised by EMCDDA and the Commission in Brussels in October 2010.

In the area of the fight against **money laundering** and economic crimes, Ukraine continued implementing its national control regime in the light of the recommendations made by Moneyval's 2009 Third Round Mutual Evaluation Report in relation to coordination between law enforcement agencies on anti-corruption. The 2005 Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Financing of Terrorism was ratified in November 2010 and a law on prevention and countermeasures against the laundering of the proceeds of crime and the financing of terrorism was adopted in May 2010. Serious inroads into the prosecution of money laundering cases have yet to be made. In March 2010, Ukraine acceded to the Council of Europe Criminal Law Convention on Corruption and its Additional Protocol.

In the area of **police and judicial cooperation** the parliament adopted the law on Personal Data Protection in June 2010 which entered into force in January 2011. In September Ukraine ratified the 1981 Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data. Ratification of the former and its Additional Protocol on supervisory authorities and trans-border data flows will enable further development of cooperation with Europol and Eurojust. Cooperation between the EU and Ukraine is based on the Conventions of the Hague Conference on Private International Law and concentrates on family law. In this context Ukraine has recently signed the 2007 Maintenance Convention

## **6. TRANSPORT, ENERGY, ENVIRONMENT, THE INFORMATION SOCIETY, RESEARCH AND DEVELOPMENT**

In the context of broader administrative reform, the Ministry of **Transport** and Communications was re-named the Ministry of Infrastructure and will now cover tourism in addition to transport and communications.

In October 2010, the Cabinet of Ministers approved the transport strategy to 2020. To implement the strategy the ministry will have to submit to the Cabinet a shorter-term implementation programme covering the period until 2015.

Under the UNECE<sup>2</sup>-AETR agreement on driving times and rest periods, Ukraine made substantial progress on introducing the digital tachograph. In June 2010 the acceptance of applications for the provision of cards for digital control devices started.. Ukraine plans to draw up a road safety strategy.

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<sup>2</sup> United Nations Economic Commission for Europe



The Presidential Programme of Economic Reforms for 2010-2014 stipulates that action plans are to be drawn up in 2011 for implementing the 2009 railway reform programme.

One round of negotiations on a comprehensive aviation agreement between the EU and Ukraine took place in March 2010. Ukraine has not replied to the latest Commission proposals. In November 2010 the Ukrainian parliament passed the draft Air Code at first reading.

Ukraine needs to ensure that its inland waterway fleet will meet recent UNECE requirements. Maritime safety also remains an issue of concern: Ukraine has not yet approved the national maritime safety concept. Ukraine will need to step up enforcement if it wants to be removed from the black list of the Paris Memorandum of Understanding on port state control.

Ukraine and the EU consolidated their **energy** cooperation during 2010. In July, Ukraine adopted a new gas law, which the EU considers a sound basis for the alignment of the Ukrainian gas market with EU and Energy Community rules. In September, the Protocol on Ukraine's accession to the Energy Community Treaty was signed. In November, the EU-Ukraine Summit adopted the fifth progress report on the implementation of the Memorandum of Understanding on Energy cooperation. In December, Ukraine ratified the Treaty, paving the way for its membership in February 2011.

In August 2010, Ukraine increased by 50% its gas tariffs for households and municipal heating companies. This is a significant step towards improving the financial viability of Naftogaz. Further action is needed to restructure Naftogaz, to increase transparency in the gas sector and to ensure full-cost coverage for gas supplies to industry. Ukraine continued to work towards membership of the Extractive Industry Transparency Initiative, aiming at transparency of hydrocarbons revenues. Ukraine took some steps to strengthen the regulator, including through EU-supported training. New laws are being drafted on electricity, energy sector regulation, the compulsory installation of gas meters and gas and electricity settlements. In February 2010, Ukraine began the process of corporatising the electricity transmission operator 'Ukrenergo'. An energy reform programme is being prepared.

Following-up the joint 2009 EU-Ukraine conference on the modernisation of the Ukrainian gas transit system, the EU agreed to support a feasibility study and environmental and social impact study on the modernisation of gas networks and underground gas storage. This study, which started in February 2011, is part of the due diligence process of the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD) and the World Bank. In September 2010, the involved donors also agreed to consider a 'fast track' project on the reconstruction of sections of the Urengoy-Pomary-Uzhgorod gas pipeline. Ukraine further developed its plans to construct a Liquefied Natural Gas terminal at the Black Sea coast and continued working on a draft oil stocks law. Together with Azerbaijan, Georgia, Lithuania and Poland, Ukraine continued to develop a Euro-Asian Oil Transportation Corridor. Ukraine moved ahead with preparations to assess the possibility to join, together with the Republic of Moldova, the interconnected electricity networks of continental Europe. Ukraine further upgraded its electricity networks.

In March 2010, Ukraine adopted an energy efficiency programme for the period 2010-2015, aiming at a 20% decrease in Ukraine's energy intensity, a 15% decrease in the volume of harmful emissions into the environment and a 50% decrease in heat losses in the housing sector compared to 2008. Ukraine worked on draft laws on energy efficiency and energy efficiency in buildings. In July 2010, Ukraine adopted a law establishing by January 2011 a

regulatory commission for communal services with the power to set communal services tariffs. Ukraine continued to work towards a restructuring strategy for coal.

Regarding nuclear energy, the EU-Ukraine-International Atomic Energy Agency (IAEA) evaluation of the safety of Ukraine's nuclear power plants was completed. Generally, it concluded that they are fully compliant with most of the IAEA's standards. Ukraine is making progress in addressing the identified shortcomings. In 2010, it further upgraded the safety of its nuclear power plants as part of the €1.5 billion upgrade package for 2010-2017. It expressed interest in applying for Euratom and EBRD loans to help finance this package. It continued strengthening its Nuclear Regulatory Authority and made good progress in restoring the Chernobyl site to an environmentally safer condition.

In the field of **climate change**, further steps were taken to draft legislation on emission trading. Ukraine took steps to prepare and approve new Joint Implementation projects, 30 of which were registered at UN level, bringing the overall number of registered projects to 48. The European Commission continued to support Ukraine in implementing the Kyoto Protocol. Ukraine is encouraged to fully implement the Cancun agreement and in particular devise a low carbon development strategy including update information on target or actions that it will implement.

Ukraine adopted a national **environment** strategy to 2020, and started to prepare a national environment action plan. Ukraine amended its legislation (Land and Water Codes) on integrated coastal zone management and adopted a new law prohibiting the felling of woodland areas in and around Kyiv. Amendments to the State Programme 2006 – 2020 on Drinking Water are being prepared. Ukraine actively participated in developing an Integrated River Basin Management Plan for the Tisza river, which was adopted by the parties in December 2010. Ukraine took some steps to promote the integration of environmental considerations into other policy sectors such as energy. Continued efforts are needed to develop legislation, to implement existing strategies and plans and to further enhance monitoring and enforcement. Ukraine still faces a major challenge in strengthening its administrative capacity at all levels. Coordination between authorities continues to require particular attention.

Ukraine made no significant progress on the UNECE protocols,<sup>3</sup> which it still has not ratified. Moreover, it must give attention to implementing several agreements it has already ratified.

In September 2009, the Espoo Convention's Implementation Committee meeting decided that its conclusions regarding the Bystroe Deep Water Canal should be addressed at the next session of the Meeting of the Parties scheduled for June 2011. In 2010 several meetings were held with the Romanian side on the disputed issues. As regards Aarhus Convention, an action plan on the implementation of the Convention and a decree on public participation were adopted in December 2009. Ukraine continued to cooperate in a compliance review of both conventions, a final project report of which was submitted in August 2010 to the Ukrainian side

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<sup>3</sup> The Protocol on Strategic Environmental Assessment to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context and the following protocols of the UNECE Convention on Long-Range Transboundary Air Pollution: Protocol on Persistent Organic Pollutants; Protocol on Heavy Metals; Protocol on Further Reduction of Sulphur Emissions; Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Trans-boundary Fluxes.

While some steps were taken to improve procedures and consultation with the public, continued efforts are needed including in the context of environmental assessments.

Ukraine took part in the EU Water Initiative, through (for example) a national policy dialogue. It also took part in the International Commission for the Protection of the Danube River and in the Commission on the Protection of the Black Sea against Pollution. Cooperation and information exchange took place between the European Commission and Ukraine, including on water, forestry, waste management, management of environmental information, nature protection and air quality.

During the reporting period there was no significant development on **civil protection**. However, in February 2011 Ukraine ratified the 1993 ILO Convention on the Prevention of Major Industrial Accidents which is expected to provide a framework for mapping and cleaning up various industrial sites where large quantities of hazardous chemicals are currently stored in unsupervised conditions.

In the **information society** sector, limited progress can be reported in the field of electronic communications regulation. The parliament still needs to adopt several draft laws, notably those simplifying market entry procedures for some electronic communications services and strengthening the regulator's independence. At present the regulator does not have the powers to establish a level playing field in the telecommunications market. Ukraine prepared amendments to the telecommunications law. In the absence of an appropriate legal framework for interconnection, the Antimonopoly Committee established that eight operators hold a monopoly in the call termination markets. Subsequently, the National Commission for Communications Regulation (NCCR) set termination rates for dominant operators. In July 2010, the parliament adopted a law which introduced number portability. The implementation of number portability will be important for improving the functioning of the market and for consumers.

In October 2010 the government formally launched the tendering procedure for privatising the state-owned fixed-line incumbent operator Ukrtelecom. (The government retains a 92.8% stake in the company).

Regarding the **audiovisual** sector, the Ukrainian parliament is currently reviewing a draft law which envisages giving 'must carry' status to all Ukrainian TV channels on pay-TV platforms. The draft law would have the effect of seriously limiting freedom of reception and retransmission as established in the Convention on Transfrontier Television ratified by Ukraine and the Audiovisual Media Services Directive, the EU audiovisual acquis on audiovisual. If adopted, the draft law would be a serious step backwards in the alignment of Ukrainian legislation with European standards on media.

Ukraine continued to update its **research and innovation** policy with more direct and sustainable economic development objectives. Ukraine's participation in the 7<sup>th</sup> Research Framework Programme (FP7) continued to be encouraging with an increased number of successful proposals in 2010. As of November, 91 Ukrainian research entities were involved in successful FP7 research projects, receiving an EU contribution of EUR 8.08 million. The possibility to associate Ukraine to FP7 is being explored. The ongoing bilateral 'Bilat-Ukr' project organised various seminars and workshops supporting Ukraine's participation in FP7. As part of this project, analysis has been carried out on the issues of scientists' mobility, research infrastructures and innovation as a basis for fostering EU-Ukraine collaboration in

these areas. The EU-Ukraine Science and Technology (S&T) cooperation agreement is in the final stages of being renewed for a further period of five years.

Ukraine continued to participate actively in the International Science & Technology Cooperation Network for Eastern European and Central Asian countries (FP7 IncoNet EECA project), which aims to support a bi-regional EU-EECA policy dialogue on science and technology and to increase EECA participation in FP7. In October 2010, an IncoNet Brokerage Event for the FP7 energy theme was organised in Kyiv by the FP7 National Information Centre.

Ukraine took an active part in the Black Sea ERA-NET project which aims to help coordinate national research programmes (from EU member states and partner countries) targeting the Black Sea region as a whole. The project consortium for the Black Sea ERA-NET project recently launched a first joint call for proposals to promote collaborative research on innovative approaches to sustainable development in the region.

## 7. PEOPLE-TO-PEOPLE CONTACTS, EDUCATION AND HEALTH

In 2010, particular attention was given to all levels of **education**, with new reform plans to accelerate convergence with the developments in the EU. Reform objectives include strengthening educational governance, improving quality and accessibility, and ensuring the continuity of education levels and financing. In August, the government identified **pre-school education** as a new reform priority. It adopted a concept for a state programme of pre-school education development to 2017, with objectives and benchmarks closely aligned with those of the EU's Education and Training 2020 targets.

The ministry of education and science initiated secondary curriculum reform in August with the adoption of two state programmes 2010-15 to improve ICT, science and mathematics education and to enhance teaching skills. Secondary education was reduced from 12 to 11 years.

The draft law on **higher education** encompasses key aspects of the Bologna Process including implementing the three-cycle system, enhancing university autonomy and facilitating student involvement in university governance, as well as providing a legal basis for external assessments. In March, the Cabinet issued an order on diploma supplements to university degrees to better facilitate degree recognition and student mobility. Most higher education institutions achieved the Bologna Process goals of implementing a two-cycle system, quality assurance measures, ECTS and recognition of diplomas. However, there are still major challenges as regards implementing the third cycle, adapting curricula to labour market needs and setting up an independent quality assurance agency.

After a break of five years the ministry of education revived the work of the National Inter-Sector Committee on **vocational education and training**, ensuring employer and trade union input into policy discussions. The draft law on a national qualifications framework, prepared by the Confederation of Employers in 2009, was re-submitted to parliament following the input of other stakeholders. The Tri-partite Committee on Vocational Guidance convened in November 2010. One key challenge that remains is to get businesses involved in defining the content of training courses, so as to maximise trainees' employment prospects. The ministry demonstrated strong commitment to the Torino Process, which analyses vocational education and training policy. The ministry assessed its own work using the agreed methodology.

Ukraine continued to benefit substantially from its active participation in **Tempus**. Five new projects were selected under the third Tempus IV Call for Proposals, including support for the development of doctoral studies. A total of 28 Ukrainian students benefited from **Erasmus Mundus** Masters Course scholarships during the 2010-11 academic year. Student and academic mobility to the EU continued to develop through the expected award of 99 individual mobility grants under Erasmus Mundus Action 2, for the 2010-11 academic year.

Three new Ukrainian projects were selected under the **Jean Monnet** Programme in 2010, including, for the first time, two Jean Monnet Chairs in Kyiv (Kyiv-Mohyla Academy) and Donetsk (State University) — on EU relations and economic issues, respectively.

Ukrainian young people, youth workers and **youth** organisations continued to benefit from the Youth in Action programme in youth exchanges, voluntary service actions and youth activities in non-formal education. Further national efforts promoting intercultural dialogue and drug prevention activities through youth exchanges and informal education would be welcome.

In the area of **culture**, Ukraine ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions in March 2010. During the year, Ukrainian cultural organisations took part in three projects under the ENP Special Action which forms part of the Culture Programme. To advance its regional cooperation within the framework of the Eastern Partnership and the Kyiv Initiative, Ukraine is once again encouraged to ratify the 2005 CoE Framework Convention on the Value of Cultural Heritage for Society.

The Presidential Programme on Economic Reform announced an ambitious reform of the **health** sector, aiming at better quality healthcare services, greater financial sustainability, improved access to services (in particular in rural areas) and a healthier lifestyle. Implementation requires sustained effort. In April 2010, in the context of last year's influenza (H1N1) epidemic, the Commission and Ukraine established communication channels for exchanging epidemiological information in the event of a public health emergency of international concern. In 2010, Ukraine signed a license agreement with the Commission under which the EU's pictorial health warnings could be displayed free of charge on tobacco packaging. Ukraine continued the fight against HIV/AIDS and tuberculosis, and took part (as in previous years) in the Commission's HIV/AIDS think tank. The health sector dialogue between the EU and Ukraine was enhanced by – among other things – Ukraine's participation in the EU's global health conference in June 2010.

## **8. FINANCIAL COOPERATION — 2010 KEY FACTS AND FIGURES**

### *Cooperation framework*

The Mid-Term Review of the programming document confirmed that the Country Strategy Paper adopted in 2007 remains a valid framework for cooperation with Ukraine. 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 three priorities: (1) good governance and the rule of law, (2) facilitation of the entry into force of the EU-Ukraine AA (including the DCFTA and (3) sustainable development.

The NIP 2011-2013 includes a specific appropriation to finance new actions under the Eastern Partnership, notably a Comprehensive Institution Building programme (CIB) (a minimum of

EUR 43.4 million) and Cohesion Policy (a minimum of EUR 30.8 million). The CIB Framework Document was signed in October 2010. It sets out the four priority areas for support: one is ‘horizontal’ (the steering and implementation process for the AA and DCFTA) and three are ‘vertical’ (sanitary and phyto-sanitary regulations, state aid control and migration).

### *Implementation*

Implementation of the measures covered by previous Annual Action Programmes (AAP) from the period 2007-2009 is underway. The three sectoral budget support operations (1) ‘Support to the implementation of Ukraine’s energy policy’, (2) ‘Promoting mutual trade by removing technical barriers to trade between Ukraine and the European Union’ and (3) ‘Support to the implementation of Ukraine’s strategy in the area of energy efficiency and renewable sources of energy’ are being implemented, although one disbursement was delayed pending timely confirmation of the improved situation in the country regarding public financial management, notably in the field of public procurement.<sup>4</sup> Two further sectoral budget support operations ‘Support to the implementation of an environmental strategy in Ukraine’ and ‘Support to the Implementation of the transport strategy of Ukraine’ were agreed at the end of the year. The two Twinning and ENP Support Technical assistance projects are being implemented, as is the project on ‘Readmission-related assistance and EUBAM-flanking measures’.

Support for the reform of the judiciary was one of the priority areas for EU assistance. It also provided for an intensive training programme attended by 2029 judges, court administrators and auxiliary court staff.

In 2010, the EU continued to support Ukraine's national reform efforts and committed assistance for a total amount of EUR 126 million under the bilateral envelope of the European Neighbourhood and Partnership Instrument (ENPI). The 2010 AAP focused on the following priorities: justice, local and regional development, energy efficiency and environment, technical assistance and border management. Of the overall amount committed, EUR 10 million was allocated to the justice sector, EUR 17 million to community based approaches to local development, EUR 12 million for a joint cooperation initiative in Crimea and EUR 10 million for energy efficiency. The 2010 AAP includes one sectoral budget support operation on border management, worth EUR 66 million. Additionally, a twinning and technical assistance project has been identified for the sum of EUR 11 million.

In addition to the bilateral allocation, Ukraine benefited from cooperation financed under the ENPI cross-border, inter-regional and regional programmes. Ukraine took part in the following four ENPI Cross-Border Cooperation (CBC) programmes: (i) Poland-Belarus-Ukraine (EUR 186.2 million for the whole programme in 2007-13). The priorities are to increase competitiveness of the border area, improving the quality of life, networking and people-to-people cooperation; (ii) Hungary-Slovakia-Romania-Ukraine (EUR 68.6 million for the whole programme in 2007-13). The priorities are to promote economic and social development, enhance environmental quality, increase border efficiency and support people-to-people cooperation; (iii) Romania-Ukraine-Republic of Moldova (EUR 126.7 million for the whole programme in 2007-13). Priorities are competitiveness of the border economy, environment, emergencies and interaction between people and communities living in the

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<sup>4</sup> EUR 12 million were released as a first tranche under the ‘Support to the implementation of Ukraine’s strategy in the area of energy efficiency and renewable sources of energy’ sector budget support.

border areas; (iv) Black Sea Basin (EUR 21.3 million for the whole programme in 2007-13). The main priorities of this programme are to support cross-border partnerships for economic and social development based on combined resources, to share resources and competencies for environmental protection and conservation, and to support cultural and educational initiatives for the establishment of a common cultural environment in the Basin. There is as yet no specific national legislation to promote cross-border and regional cooperation. Existing CBC programmes at local and regional levels have aimed to facilitate civil society cooperation as well as other external cooperation programmes.

Ukraine also participates in the ‘Central Europe’ and ‘South-East Europe’ Transnational Cooperation Programmes developed under the European Regional Development Fund (ERDF) to which the country was admitted in May 2008.

Under the ENPI-financed Neighbourhood Investment Facility (NIF), two feasibility studies were approved in 2010 for EUR 2.5 million. These are expected to leverage loans from European financial institutions for modernising Ukraine’s gas transit corridors and underground gas storage facilities.

Other EU Instruments supplement the ENPI assistance package. Ukraine benefited from cooperation activities financed under horizontal instruments such as the European Instrument for Democracy and Human Rights (EIDHR) and the Development Cooperation Instrument (DCI) thematic programmes: ‘Environment and sustainable management of natural resources including energy’ and ‘migration and asylum’. Ukraine remained one of the main direct beneficiaries of the Instrument for Nuclear Safety Cooperation (INSC). Funding in 2010 amounted to about EUR 21.1 million for supporting radioactive waste management, assisting the State Nuclear Regulatory Committee of Ukraine (SNRCU) and enhancing the Operational Effectiveness, Safety Performance and Human Resources’ effectiveness of NNEGC Energoatom and its nuclear power plants.

Negotiations for the disbursement of about EUR 610 million of macro-financial assistance to Ukraine were launched in 2010, but have not yet been concluded.

In 2010 the European Investment Bank (EIB) agreed to lend Ukraine about EUR 15.5 million for the Mykolayiv Vodokanal project, which is aimed at modernising water supply and treatment in the town of Mykolav.

### ***Donor coordination***

In 2010 the EU Delegation in Ukraine regularly coordinated assistance cooperation with the EU member states and, in the absence of a structured government-led mechanism, coordination with other development partners. The EU Delegation contributed actively to the major donor group’s work as well. Poland and the United Kingdom agreed to provide some bilateral support for the preparatory phase of the CIB programme, working together within the framework of enhanced EU coordination. Furthermore the Commission and 14 member states have launched the Joint Cooperation Initiative in Crimea (JCIC), aimed at promoting the development of the region.