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Implementation of the European Neighbourhood Policy in Ukraine Progress in 2014 and recommendations for actions

Accompanying the document

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Implementation of the European Neighbourhood Policy in 2014

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1. OVERALL ASSESSMENT AND RECOMMENDATIONS FOR ACTION

This document reports on progress made between 1 January and 31 December 2014 on the implementation of the EU-Ukraine Association Agenda. Developments outside this period are taken into consideration where relevant. This is not a general assessment of the political and economic situation in Ukraine. Information on regional and multilateral sector issues is contained in the Eastern Partnership Implementation Report.

In 2014 European Neighbourhood Policy (ENP) reforms were carried out in a very difficult political, economic, social and military/security context of armed conflict in Ukraine. The illegal annexation of Crimea and Sevastopol by the Russian Federation and the subsequent destabilisation of eastern Ukraine have been major challenges for the state and the country's sovereignty and territorial integrity. In parallel to the armed conflict, Ukraine sought a sustainable political solution to the crisis in 2014, in particular through diplomatic contacts and the National Dialogue on Reforms.

Following massive civil protests at Independence Square ('the Maidan'), in which more than 100 people were reported to have been killed, the President and the opposition reached an agreement on the way out of the political crisis on 21 February 2014. Subsequently, parliament voted for a law to reinstate the 2004 constitution. Following the sudden departure of President Viktor Yanukovich from Kyiv, parliament, with the necessary constitutional majority, dismissed President Yanukovich for failing to perform his duties, and appointed a new government headed by Prime Minister Arseniy Yatsenyuk. Petro Poroshenko was elected President of Ukraine on 25 May 2014. Following parliamentary elections of 26 October 2014, a new government led by Prime Minister Yatsenyuk was formed on 3 December, on a reform platform.

High-level political dialogue between the EU and Ukraine was intense during 2014. Ukraine signed the political provisions of the Association Agreement on 21 March 2014 and signed the provisions in the remaining parts on 27 June 2014. On 16 September 2014, the Ukrainian Parliament ratified the Association Agreement and the European Parliament gave its consent, enabling the provisional application of the relevant provisions of the agreement on 1 November 2014 and the Deep and Comprehensive Free Trade Area section of the agreement on 1 January 2016. The first meeting of the EU-Ukraine Association Council was held 15 December 2014.

The EU also participated in meetings seeking a sustainable political solution to the conflict in eastern Ukraine, including in Geneva in April 2014, in Milan in October 2014 and in Minsk in August 2014 and in February 2015.

In response to the challenging situation in Ukraine, the European Commission adopted a support package for Ukraine in March, worth EUR 11.1 billion over the coming years. It also set up a special support group to assist the Ukrainian authorities in carrying out the necessary economic and political reforms. In this context, the EU disbursed more than EUR 1.6 billion in loans and grants in 2014, notably through its State Building Contract and Macro-Financial Assistance programmes. In July the EU also set up the EU Advisory Mission for Civilian Security Reform Ukraine (EUAM Ukraine) to assist Ukraine in reforming its civilian security sector, including the rule of law and the police.

Following dramatic changes at the beginning of the year, and despite some months in which severe abuses of human rights took place, Ukraine made overall good progress on deep and sustainable democracy, on human rights and fundamental freedoms. Ukraine conducted its presidential and parliamentary elections largely in compliance with EU and international standards, as confirmed in reports from the Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). Election legislation was improved before these elections. However, the need for comprehensive reforms in this area remained. A law on public prosecution and several anti-corruption laws were adopted. Some steps were taken towards the establishment of the National Anti-Corruption Bureau. Progress is still pending on judicial reform and law enforcement reform, where several proposals were discussed but new legislation was not produced. The lack of accountability in the police for cases of ill-treatment persisted. After worrying developments at the beginning of the year, the situation improved with regard to freedom of expression, freedom of the media and freedom of assembly. Anti-discrimination legislation was improved and now needs to be implemented.

The human rights situation deteriorated drastically for people living in Crimea and Sevastopol after the illegal annexation and in the areas controlled by illegal armed groups in eastern Ukraine. Fundamental freedoms, in particular freedom of assembly, freedom of association, freedom of expression and freedom of the media were not guaranteed in these regions. The number of internally displaced persons and refugees increased, exceeding 1.4 million. Ukraine's capacity for providing humanitarian assistance to internally displaced persons proved insufficient. The armed conflicts had a significant impact on children's and women's rights.

Civil society continued to develop in Ukraine. Since 2014, municipalities gave civil society organisations (CSOs) insight into their decision-making process.

Ukraine adopted a number of important legislative reforms to meet the benchmarks set in the Visa Liberalisation Action Plan. As a consequence, Ukraine moved on to the second phase of implementing the action plan.

The process of decentralising competences was launched. A number of legal acts were adopted, notably on the amalgamation of municipalities and on budget decentralisation.

Ukraine's efforts to reach a sustainable political solution to the conflicts in its territory are particularly noteworthy. The EU supported Ukraine in these efforts.

Ukraine's economic output sharply contracted in 2014, as a result of deep-rooted macroeconomic and structural weaknesses. This situation was significantly aggravated by the worsening security situation, which damaged the country's capacity for production and affected business and consumer confidence.

Taking into account the particular political and security/military situation in Ukraine in 2014, Ukraine made some progress in implementing the ENP, with notably substantial achievements on deep and sustainable democracy, including on elections, prosecutorial reform, anti-corruption legislation, and visa liberalisation.

Based on the assessment of its progress in 2014 on implementing the ENP, Ukraine should focus its work in the coming year on:

- ensuring that the constitutional review process is carried out and completed in an inclusive and participatory way, in line with the recommendations of the Venice Commission of the Council of Europe and including civil society. As first steps, this includes measures towards enabling decentralisation reform and reform of the judiciary;
- taking steps towards harmonisation of all electoral legislation through its unification and reform of political party financing, including state financing. This should be prepared through an inclusive and participatory process in line with the OSCE/ODIHR, GRECO and Venice Commission recommendations, with first priority being given to revising the law on local elections for the local elections planned for the second half of 2015;
- taking additional steps on judicial reform in line with European standards and in close consultation with the Council of Europe/Venice Commission, in particular by adopting a Justice Reform Strategy with a comprehensive implementation plan; ensuring the effective functioning of the High Council of Justice and adopting and implementing the laws on the judicial system and the status of judges; implementing the law on public prosecution;
- continue to investigate independently the violent acts which occurred during civil protests in November 2013 – February 2014, as well as the tragic events in Odessa in May 2014, with the support of the International Advisory Panel proposed by the Council of Europe;
- investigating, in an independent and transparent manner, alleged crimes committed in the conflict zone;
- taking steps towards ratification of the Rome Statute of the International Criminal Court;
- ensuring that the lustration processes in the executive and in the judiciary are in line with the relevant international standards;
- in close cooperation with the EU Advisory Mission, adopting and implementing a plan for police reform, to pave the way for comprehensive reform of the police, including the establishment of a police complaint mechanism for allegations of ill-treatment and torture by law enforcement officers, and an independent and an effective investigative mechanism for such crimes;
- duly implementing the comprehensive anti-corruption legal package adopted in October 2014, starting with setting up and ensuring effective functioning of the National Anti-Corruption Bureau and the National Agency for the Prevention of Corruption;
- improving transparency and competitiveness in public procurement, notably by bringing the list of exceptions from the sphere of public procurement into line with the EU Public Procurement Directives;
- starting comprehensive reform of the public administration, and in particular of the civil service and service in local self-government bodies focusing on European principles of public administration, including by finalising and adopting the draft Law on Civil Service Reform; appointing an institution at government level to be in charge of public administration reform;

- adopting and implementing laws introducing decentralisation reforms;
- aligning energy legislation and practice with the 'Third Energy Package';
- reducing the regulatory burden for businesses and improving the efficiency of the tax administration;
- continuing to develop external audit function to strengthen the system of checks and balances;
- making efforts to meet the second phase of benchmarks set out in the Visa Liberalisation Action Plan on Visa Liberalisation;
- speeding up the implementation of the Law on Public Broadcasting, in particular by setting up a new supervisory body;
- strengthening capacity and the scope of action in institutions dealing with internally displaced persons and taking steps to facilitate the delivery of international humanitarian assistance (including taxation issues);
- continuing reforms to public finance management, in particular in the areas of strategic budgetary planning, introduction of budgetary rules, forecasting, prioritisation of investment projects, public procurement, internal control and internal audit and budget transparency.

2. POLITICAL DIALOGUE AND REFORM

Deep and sustainable democracy

The presidential **election** in May and the parliamentary elections in October 2014 were considered by both international and national observers to have been conducted largely in compliance with Ukraine's international commitments, with only minor reported incidents of violations or fraud, including indirect vote buying and violence. Elections could not be held in the illegally annexed Crimea and Sevastopol regions, or in the parts of the Donetsk and Luhansk regions which are controlled by illegal armed groups. The election of city councils and of mayors in a number of cities where the post was vacant also took place, in May 2014.

With regard to election legislation reform, only the law on presidential elections was significantly improved, with relevant amendments adopted by parliament in March 2014. These addressed a number of concerns raised by both international and domestic election experts. Some minor amendments to the parliamentary elections law were also adopted in October 2014, reducing the number of deficiencies.

No progress was made on the long-standing need for comprehensive reform of the laws on parliamentary elections, local elections, national and local referenda, in line with the recommendations by the OSCE/ODIHR and the Council of Europe's Venice Commission.

In February 2014, the 2004 **constitution** was reinstated through a parliamentary resolution. Simultaneously, an ad hoc parliamentary commission for constitutional reform was set up to

work on horizontal division of powers, decentralisation reform and the reform of the judiciary. The commission did not propose uniform constitutional amendments before the presidential elections. Amendments proposed by President Poroshenko after his election were not put to a parliamentary vote before the early parliamentary elections. They were analysed by the Venice Commission, which issued a mixed assessment in October 2014.

In mid-January 2014, legislation severely restricting **freedom of assembly** and other fundamental freedoms was introduced to curb the nation-wide protests. Riot police violently attacked the ‘Maidan’ on several occasions. The protests peaked during the second half of February 2014, leaving up to a hundred people dead. The restrictive legislation was partially withdrawn a week later and entirely repealed after the change of government in February 2014. Demonstrations and manifestations were frequent in 2014, but since May no major violent incidents have occurred. The tragic incident resulting in the death of over 40 anti-‘Maidan’ demonstrators in Odessa in May is under investigation.

The Ukrainian authorities agreed to the proposal by the Secretary General of the Council of Europe to set up an International Advisory Panel, covering investigations into human rights abuses in the period from November 2013 to February 2014. Its mandate was later extended to cover the events in Odessa. Parliament recognised the International Criminal Court’s jurisdiction over the crimes committed between November 2013 and February 2014.

The beginning of 2014 saw a very difficult situation regarding **freedom of expression and freedom of the media**, with most media strictly under central state authority control and journalists being a physical target for the riot police. The situation substantially improved after February 2014, except in those parts of the Ukrainian territory which were illegally annexed by the Russian Federation (Crimea and Sevastopol) or were under the control of illegal armed groups (parts of the Donetsk and Luhansk regions). The law on public broadcasting was adopted by parliament, aiming to transform the state broadcasting service into an independent public service. However, its implementation was significantly delayed due to attempts by various interest groups to derail the process of establishing a public broadcasting service.

The lack of transparency of ownership of media remained an issue and a proper legislative framework on media ownership was not created in 2014.

Broadcasting of several news channels from Russia was suspended by the courts, for national security reasons. Ukrainian TV channels were suspended in the illegally annexed Crimea/Sevastopol and in the territory under the control of illegal armed groups. Cases of abduction, killing and mistreatment of journalists in these parts of Ukraine were frequently reported. **Freedom of religion or belief** has also been severely affected in these regions, with the targeted persecution of particular religious communities.

In April 2014 parliament adopted a law on restoring trust in the **judiciary**, changing the process whereby judges were excessively subordinate to court presidents, and making court presidents and judges independent from political authorities. All incumbent court presidents were dismissed, although many of them were re-elected. A draft justice sector reform strategy was developed, with EU support.

In October parliament adopted a new law on public prosecution, which largely took account of the Venice Commission’s recommendations.

Several measures were taken by the government, the presidential administration and parliament, to implement anti-corruption policies. Changes to the anti-corruption legislation were adopted in May 2014, strengthening asset disclosure provisions by:

- introducing an external control mechanism;
- criminalising all types of bribery (active and passive);
- adding rules on corruption in the private sector as regards legal persons; and
- increasing penalties.

In addition, whistle-blower protection was also strengthened. A separate comprehensive law was adopted on public procurement, covering transparency rules, the award of public contracts, and the scope of procuring entities. Ukraine was ranked 142nd out of 175 in the Transparency International 2014 corruption perception index (2013: 144th out of 177).

Another package of anti-corruption laws was adopted by parliament in October, including laws on the National Anti-Corruption Bureau, the setting up of an Agency for the Prevention of Corruption, the disclosure of the actual owners of companies, combating money-laundering, terrorist financing and financing for WMD proliferation, and preventing corruption. The national strategy on corruption still needs to be supported by an implementation plan setting out precise measures, deadlines, indicators, responsibilities and an indication of available resources.

The reform of the **law enforcement**, including police reforms, did not progress. The role of law enforcement services, including special police forces, in violent attempts to disperse peaceful demonstrators at the ‘Euromaidan’ protests in the first half of 2014 and the failure to prevent active participation by some disloyal law enforcement operatives in the initial stages of destabilisation in eastern Ukraine underlined the need for reform in this sector. The government approved a police reform strategy, proposed in October by the Minister of Interior.

As regards **the democratic control over armed and security forces**, Ukraine began to reform its military, to create a professional army with contract soldiers, before the annexation of Crimea and Sevastopol. The reform was at a very early stage, and had not been fully implemented. After the annexation had taken place, the draft law was formally re-introduced and volunteer units were organised under the supervision of the Ministry of Interior. On some occasions, their leaders expressed discontent with official policies.

Other human rights and fundamental freedoms

Even though the number of cases of **ill-treatment** decreased due to the implementation of the new Criminal Procedure Code, the lack of police accountability for recurrent cases of ill-treatment and torture remained a problem. This is due to the absence of effective and independent investigation and the lack of a police complaint mechanism. The State Bureau of Investigation, provided for in the new Criminal Procedure Code and which could investigate cases of ill-treatment and torture, was not yet set up.

National legislation on **gender equality** and women’s empowerment was, in general, well-advanced, based on existing UN Conventions. However, Ukraine still did not meet European standards in this area. According to the World Economic Forum’s global gender gap index, in 2014, Ukraine was ranked 56 out of 142 countries. Gender-based violence remained a major concern. The state programme for gender equality and equal opportunities for 2014-16

continued to lack adequate resources. The number of cases of domestic violence increased. A state hot line for the victims was not yet set up. The NGO-operated hotline was insufficiently resourced and did not cover the whole country. In December 2014, the Ministry of Social Policy, supported by an EU twinning project, prepared amendments to the legislation on employing people with **disabilities**. They focused on incentives for employers and administrative sanctions for companies violating the rights of people with disabilities.

In May amendments to the **anti-discrimination** law were adopted by parliament, addressing key issues, including provisions on shifting the burden of proof in cases before the courts. The amended anti-discrimination law did not introduce an explicit reference to sexual orientation as prohibited grounds for discrimination. In May the Highest Specialised Court on Civil and Criminal Cases issued a ruling confirming that sexual orientation is implicitly included in the existing legislation and is therefore prohibited as grounds for discrimination.

In 2013 a strategy and an action plan on the inclusion of the **Roma minority** were adopted. Limited progress was made on implementing these, with insufficient time and resources being devoted to the pressing social, educational, administrative and legal challenges that the Roma community faced.

Regarding **national minorities**, in February 2014 the Acting President vetoed the revocation proposed by parliament of the 2012 language law. This would have meant that regional and local authorities no longer had the right to declare minority and regional languages for official use on their territory, in addition to Ukrainian, as provided for by the law. Large parts of the 2012 language law had been positively assessed by the Venice Commission, who made however several suggestions for improvements. An ad hoc parliamentary committee was set up to prepare a new draft law on languages, but it did not come up with an agreed draft before the early parliamentary elections. The 2012 language law therefore remained in force.

Following the illegal annexation of Crimea and Sevastopol, reports from international organisations confirmed a general degradation of the human rights situation on the peninsula. The Crimean Tatar community was particularly affected. The Mejlis (the Assembly of Crimean Tatars) was evicted from its premises, two Mejlis leaders were banned from entering the peninsula, a number of its activists were persecuted and several young male Crimean Tatars were reported to be kidnapped, tortured and killed.

The ongoing armed conflict made many people leave their homes, becoming **internally displaced persons** (IDPs) or refugees. There were more than 1.4 million of them altogether, according to estimates by the UN Office for the Coordination of Humanitarian Affairs from December 2014. Legislation on IDPs, adopted by parliament in October 2014, came into force in November. However, a number of issues hampering the delivery of humanitarian aid remained to be addressed. The Ministry of Social Policy was tasked with registering IDPs and channelling relief efforts. A dedicated agency focusing on IDPs was created, but the head of the agency was not appointed. Housing remained an issue, as many private houses were destroyed during the conflict. The decisions taken by president and government in December regarding the suspension of social transfers to people from the areas outside government control in the Donbas (unless they resettled as IDPs) are also of concern.

The overall human rights situation worsened in the Donbas region: reports were frequent of targeted killings, arbitrary detention, ill-treatment and torture, intimidation, threats and ‘expropriation’ of private property by the illegal armed groups. There were reports of cases of

allegedly indiscriminate use of artillery in densely populated areas, targeting or bringing collateral damage to civilians.

Parliament adopted legislation to give extraordinary powers to **law enforcement** bodies in connection with the anti-terrorist operation in the east of the country. This legislation included amendments to:

- the law on the police allowing for the use of force against people considered to be terrorists under Ukrainian terrorism legislation;
- the Code of Criminal Procedure and other laws on establishing the competent court to oversee the investigations of crimes committed in the area of an anti-terrorist operation; and
- the Code of Criminal Procedure, allowing for administrative detention of suspects for up to 30 days by decision of a prosecutor, without any judicial oversight.

The conflict in the east of the country had a heavy impact on **children's rights**. Many children and their parents were forced to leave their native towns and places of residence, and many became victims of the war and subject to kidnapping, sexual and other forms of exploitation and trafficking. Since February 2013, Ukraine has been a member of the Global Alliance against Sexual Abuse of Children Online. In December 2014 parliament discussed four new draft laws related to protecting children's rights.

Regarding **labour rights**, Ukraine ratified all eight of the International Labour Organisation's Labour Core Conventions. There was no tangible development in 2014 to bring the Labour Code fully into line with these standards.

Other governance-related issues

Regarding **public administration reform**, new draft laws on the civil service and on administrative procedure were prepared. The drafts were assessed positively by SIGMA (a joint EU-OECD initiative on Support for Improvement in Governance and Management). A law on 'cleaning up the government' was adopted in September 2014, aiming to improve the transparency of the civil service by establishing a re-vetting process. This law was being revised following the Venice Commission's interim opinion in December 2014.

In April 2014, the government adopted a strategy on **local self-government** and territorial organisation of power in Ukraine, setting the framework for far-reaching **decentralisation reforms**. The reforms tackle a complex set of issues:

- de facto excessive centralisation of the system, fiscal dependence on central government and limited financial resources, and socioeconomic issues;
- limited administrative capacity;
- corruption; and
- insufficient involvement of the public.

Following this, the law on cooperation of territorial communities was adopted in June 2014. Amendments to the budget were adopted in December 2014, allowing additional funds for local self-administration. Other draft laws remained under consideration.

The state strategy for regional development until 2020, prepared with the support of the EU technical assistance, was adopted in August 2014 and a financing agreement on EU budget support to Ukraine's regional policy worth EUR 55 million was signed in December 2014.

Civil society was developing quickly in all parts of Ukraine. Several groups became more organised and structured. There were numerous attempts to create a national network, including civil society organisations and activists from all parts of Ukraine. To meet the demand for public awareness and understanding of decision-making processes, many municipalities introduced 'Citizen Advisory Boards'. In September representatives from civil society organisations, trade unions and the employers' federation made up the Ukrainian delegation to the EU-Ukraine civil society platform, provided for in the EU-Ukraine Association Agreement. Ukrainian civil society took an active part in the work of the Eastern Partnership Civil Society Forum.

Massive civil protests in November 2013-February 2014 were sparked by the decision to suspend preparations to sign the Association Agreement/Deep and Comprehensive Free Trade Area. Civil society further developed its capacity in many sectors including elections, European integration, human rights protection and the environment/green society. Networking and communication among civil society organisations increased both across the sectors of their expertise and between regions. The importance of working in coalitions, ability to self-organise and defining roles and tasks was clearly demonstrated in the activities taking place as part of the 'Reanimation Package of Reforms' initiative.

After the laws restricting citizen's rights and civil society activities were revoked in late January 2014, civil society organisations operated in a generally favourable legislative environment. The emergence of non-for-profit internet media added a new dimension in overseeing and monitoring public policies. However, the smooth functioning of civil society was hampered by a lack of legislation on assembly that was in line with international standards and a lack of progress in investigating cases of physical aggression against civil activists.

In 2014 the EU committed EUR 10 million in a programme to support civil society, which accompanied the '**State Building Contract**' programme worth EUR 355 million. The increase of civil society participation in policymaking, public policy monitoring and service delivery was identified as one of the priorities for the EU country roadmap for engagement with civil society in Ukraine.

Cooperation on foreign and security policy, regional and international issues, conflict prevention and crisis management

In 2014 Ukraine aligned with 35 out of the 49 EU Common Foreign and Security Policy (CFSP) declarations (73%) which it had been invited to support. This constituted an increase in alignment, compared to 2013 (15 out of 32 (47%) in 2013).

Ukraine continued to cooperate with the EU on regional and international issues. Ukraine contributed to the Common Security and Defence Policy (CSDP) Operation EUNAVFOR Atalanta by sending personnel to its headquarters and the frigate Hetman Sahaydachny to the operation area. The latter returned to Ukraine following the illegal annexation of Crimea and Sevastopol.

The EU Advisory Mission for civilian security sector reform was launched in July 2014 to provide strategic advice in this area. The mission agreement was signed in October 2014 and the mission was officially launched on 1 December 2014.

In 2014 the EU and Ukraine took part in diplomatic efforts to reach a **sustainable political solution to the conflicts** on Ukrainian territory, in particular:

- the Geneva Joint Declaration of 17 April 2014;
- the ad hoc presidential meeting in Minsk in August 2014; and
- the high-level meeting in Milan in October 2014.

Ukraine was active in seeking political solutions in other formats, including the Normandy format (the Berlin Declaration in July 2014) and the Trilateral Contact Group (the Minsk Protocol and Memorandum in September 2014). Ukraine worked to carry out its commitments.

3. ECONOMIC REFORM AND SOCIAL REFORM AND DEVELOPMENT

Following two years of stagnation, Ukraine's economy entered a deep **recession** in 2014 due to the conflict in the eastern part of the country. This crisis was reflected in a sharp currency depreciation and lower investment and consumption. The loss of productive capacity in eastern Ukraine, the country's industrial hub, contributed to the contraction of GDP by an estimated 7.1%¹ in 2014.

The depreciation of the currency, coupled with significant increases in administered prices, resulted in an acceleration of CPI **inflation** to an estimated 24.9% year-on-year in December 2014. Despite the introduction of various corrective measures (on both the revenue and expenditure side), the **fiscal position** worsened, as the overall fiscal deficit, including the deficit of the state-owned gas monopoly Naftogaz, rose to an estimated 10% of GDP in 2014 from 6.7% a year earlier. This high budget deficit, coupled with the currency depreciation and funds allocated in support of the banking sector, led to a strong increase of the **public debt**, reaching an estimated 72.4% of GDP at the end of 2014 from 40.3% in 2013.

On the external front, an adjustment of the **current account deficit** (to an estimated 4.0% of GDP from 8.7% in 2013), due to reduced imports, was accompanied by sizeable private-sector **financial outflows** and payments for gas arrears. As a result, Ukraine's **gross international reserves** fell by nearly 60% (EUR 10 billion) in 2014 to only EUR 6.2 billion at the end of the year, or only 1.4 months of next year's imports. This happened despite official support of close to EUR 7 billion that Ukraine received in the year as part of the IMF-led international support programme for the country. The EU disbursed EUR 1.36 billion in loans to Ukraine under two macro-financial assistance programmes and provided EUR 250 million in budget support grants for institution-building.

The **unemployment** rate reached an estimated 9.2%, up from 7.2% in 2013 and was approximately twice as high for young people. Informal employment remained substantial. The authorities decided in April 2014 to reduce the size of the state public service by 30% and to reduce benefits for public servants as part of their efforts to reform the public

¹ For sources and detailed figures, see Statistical Annex accompanying the reports; figures without sources are forecasts by Commission services.

administration and in view of the significant budgetary constraints the country faces. In June, many state agencies were closed or merged. The situation in eastern Ukraine generated new social emergencies. The 2015 budget that the government prepared made provision for considerable cuts in social benefits. Adoption of the revised Labour Code is still pending.

There was almost no assistance provided by the government to IDPs and the modest financial benefits granted to IDPs under the Decree 505 are running out due to a lack of funding.

Sustainable development was still not addressed systematically. Due to the lack of a single and comprehensive **agricultural** strategy, the EU supported the initiative to launch an inclusive process to support the development of a strategy for agriculture and rural development covering 2015-20.

4. TRADE-RELATED ISSUES, MARKET AND REGULATORY REFORM

Despite a significant annual contraction (-27%), the EU-28 consolidated its position as Ukraine's main trading partner, with an overall trade in goods amounting to EUR 30.92 billion in 2014.

While in 2013 the EU and the Russian Federation had represented respectively 27% and 24% of Ukraine's total exports, the picture changed substantially in 2014, with the EU representing close to a third of Ukraine's exports and Russia only 18%. Exports to the EU, which remained to similar level as in 2013, contributed to compensate falling trade between Ukraine and Russia, although the type of goods exported to the EU (mainly agricultural products and raw materials) were different to those exported to Russia (mainly machinery and manufactured goods). The relative shift in external trade flows towards the EU can be explained partly by the opportunities created by the preferential access to the EU market granted by the autonomous trade measures (ATMs), partly by the adverse effects of restrictive trade measures imposed by the Russian Federation. The decline in imports and overall slowdown in consumer spending has sharply reduced Ukraine's overall trade deficit to USD 0.5 billion in 2014, compared with USD 19.6 billion in 2013.

The current government initially adopted a number of measures aimed at improving the EU-Ukraine trade. However, new trade restrictive measures were introduced as response to the critical macroeconomic conditions. They risk reversing the improvements in trade relations and worsening the business climate.

In the areas of **free movement of goods and technical regulation**, the new government renewed efforts to move forward on technical regulation reforms. A draft strategy for the development of the technical regulation system until 2018 and a related action plan were prepared. These were in line with the relevant provisions of the EU-Ukraine Association Agreement. Long-awaited new versions of the laws on standardisation and metrology were adopted, as was a new law on technical regulations and conformity assessment. Work continued on revising other technical legislation, but this did not result in the adoption of new regulations (due more to technical complexities than to any lack of political will). Ongoing cooperation in the area included a EUR 45 million programme for promoting mutual trade by removing technical barriers to trade between Ukraine and the EU.

Reform of the **customs** authorities was hindered by the legacy of confusion from earlier re-organisations and the complex process used to review responsibilities and resources. This also hindered effective relations with other agencies, notably with regard to facilitating trade. Some capacity-building activities were carried out in the areas of common transit procedure, authorised economic operator, rules of origin, enforcement of intellectual property rights, and tariff classification.

In relation to **sanitary and phytosanitary issues** (SPS), some progress was made on harmonising Ukrainian food legislation with EU legislation, including the adoption in September of laws on food safety and animal identification and registration. Draft laws on official inspections of food and feed, and animal health and welfare, and on by-products of animal origin not intended for human consumption began the legislative process. The government adopted a resolution to create a single State Service for Food Safety and Consumers Protection (including responsibility for the Sanitary and Epidemiological Service) in line with EU recommendations. However, several long-standing SPS barriers were not addressed, for instance the BSE-related restrictions of imports of beef and veal meat from the EU.

Ukraine made little progress in aligning its legislation with that of the EU in the areas of **company law, corporate governance, accounting and auditing**. The Ministry of Finance continued to prepare new legislation on auditing, aiming for compliance with Directive 2006/43/EC on statutory audits.

The **business and investment climate** in Ukraine remained poor, with long-standing problems exacerbated by the very difficult macroeconomic situation and the conflict in the south and east of the country. There was little perception of improvement with regard to corruption and economic reforms. Consequently, there was little new foreign direct investment in Ukraine: most commentators forecast a further drop in foreign direct investment to well below USD 1 billion (compared with USD 3.3 billion in 2013 and USD 6.6 billion in 2012). New difficulties arose from the national bank's restrictions on access to and use of foreign exchange. While Ukraine further improved its position in the World Bank's Doing Business report (up 16 ranks to 96th, compared with 137th two years earlier), this mainly reflected improvements in registering property and paying taxes.

In relation to **financial services**, legislation was adopted in July, introducing criteria for systemically important banks. The National Bank of Ukraine began to develop implementing rules, identifying eight banks in this category, and developed a schedule of charter capital increase in order to comply with the law. Progress was also made on the disclosure of information about banks' owners, with information about owners with 'substantial participation' in operating banks published on the National Bank's website. In July, parliament adopted legislation which envisages increased requirements for corporate governance of banks.

Steps were also taken towards introducing disclosure requirements in the **non-banking sector**, with consideration being given to a draft law on the disclosure of information by non-bank financial intermediaries. These are subject to the regulation by the National Commission for Regulation of Financial Services Markets (insurance, private pension funds, credit unions, leasing, factoring, and pawn shops). The Commission began technical preparations for the implementation of this legislation.

In the area of **free movement of capital**, the National Bank introduced numerous restrictions to stem capital flight. Although understandable from a macroeconomic viewpoint, some of the measures were heavily criticised by businesses, as they hampered business transactions, and created uncertainties as the measures changed frequently throughout 2014. In November, the National Bank annulled these restrictions, but tightened the compensatory rule, requiring banks' clients to provide evidence that their contract prices are in line with market prices, to prevent fraudulent operations.

The revised **public procurement** law came into force in April. Although this had many positive aspects, it was not fully compatible with the relevant EU legislation.

Ukraine made significant progress in the area of **public finance management** reform in August 2013, approving the public finance management strategy and action plan by a decision of the Cabinet of Ministers. Some positive legislative changes occurred relating to the public procurement system, the anti-corruption strategy, and the law on public access to information. However, implementation of the 2013 reform strategy was delayed. There was no progress on increasing budget transparency, due to the delayed submission of the 2015 budget and the upcoming adoption of a new law regulating the Accounting Chamber of Ukraine's mandate to control revenues and local budgets.

In July the Parliament passed a law on **state aid** to companies, designed to work as a framework law for the Ukrainian state aid system. The law was compatible with EU standards, but care needed to be taken to ensure that the large amount of secondary legislation was also compliant with the EU state aid *acquis*. The EU supported Ukraine in setting up a sound state aid monitoring and audit system.

In the first half of 2014, Ukraine's Anti-Monopoly Committee (AMCU) received nearly 3 000 complaints about **competition** violations and took about 3 200 decisions.

Ukraine made some progress on **deregulation**, by reducing the number of licences and permits necessary to do **business** in Ukraine. The new government revised the national programme for **small and medium enterprises**, which was awaiting adoption by parliament, and abolished the State Administration on Regulatory Policy and Entrepreneurship, which had drafted the national programme. The government set up a new service for regulatory policy and transferred responsibility for entrepreneurship support to the Ministry of Economic Development and Trade. Ukraine officially requested to participate in the EU Programme for the Competitiveness of Enterprises and SMEs.

In the area of **taxation**, the government undertook several revenue-consolidating measures. These included a new 1.5% military tax (to support the anti-terrorist operation in the east of Ukraine) on individual incomes and higher duty rates on oil, gas and metals extraction. The long-standing problem of VAT refund arrears was addressed by issuing VAT bonds. A new system of electronic VAT administration was introduced, created as part of the amendments made to the Tax Code, and this was expected to become fully operational in the second half of 2015. In the summer, the government announced an ambitious reform of the tax system and introduced relevant draft legislation to parliament. The reform envisaged cutting the number of taxes, simplifying companies' tax reporting, and revising the social contribution tax and personal income taxation system. Some taxes, particularly the real estate tax and a fixed agricultural tax, would be retained at local level. Local municipalities would also be given autonomy to approve their budgets and borrow from international financial institutions. These

reforms were adopted with the 2015 budget law. Tax administration pressure on businesses persisted in 2014.

Concerning **statistics**, the planned 2014 population and housing census did not take place. The lack of data on population and housing conditions will make future planning and policy-making more difficult. Concerns about the professional independence of statistics services also surfaced, raising questions about the reliability and objectivity of statistical data.

Some amendments were made to **consumer protection** legislation, removing administrative requirements which had hindered competition and trade.

The EU and Ukraine began a dialogue on integrated **maritime policy and fisheries**, for which the Ministry of Foreign Affairs appointed relevant national contact points.

5. COOPERATION ON JUSTICE, FREEDOM AND SECURITY

The fourth European Commission report on the fulfilment of the Visa Liberalisation Action Plan benchmarks was adopted on 27 May 2014. The new EU-Ukraine visa facilitation agreement, which came into force on 1 July 2013, has been implemented in a satisfactory manner. The Readmission Agreement between Ukraine and the EU was implemented satisfactorily and without significant obstacles. In November proceedings were completed to enable the entry into force of the first two implementing protocols, with Austria and the Czech Republic, concluded by Ukraine under the Readmission Agreement with the EU. Ukraine also signed Readmission Agreements with Russia, Georgia, Uzbekistan, Turkmenistan and Moldova, among others. In total, 17 Readmission Agreements were concluded.

Progress continued on the demarcation of state borders. Ukraine lost effective control over a part of its borders with the Russian Federation due to the control of areas in eastern Ukraine by illegal armed groups and the illegal annexation of Crimea and Sevastopol. With the 2007-15 integrated border management strategy and the state target law enforcement programme ('development and restructuring of the border until 2015') coming to an end, the government intended to work on a strategic vision for the State Border Guard Service and for border management over the next decade. The conflicts halted the ongoing process of demilitarising the State Border Guard Service.

As regards document security, implementing regulations were adopted to prepare for the issue of biometric passports. The amended framework registry law ('the Law on Single Demographic Registry and Identity Documents') came into force in July 2014. It provided for a unified register to be the only database used for issuing biometric identity and travel documents. Ukraine started to issue biometric passports in January 2015.

In May amendments to Ukraine's asylum legislation on the scope of complementary and temporary protection were adopted. In addition, the legal framework was improved, to ease access to employment for asylum-seekers and to ensure that medical care is provided. The provision of interpretation to asylum-seekers, the listing of grounds for rejecting asylum claims, and corruption appear still to pose challenges. People seeking international protection are now entitled to free primary legal aid (such as information on the procedures, and consultations and assistance regarding preparing documents and applications) under the 'Law on Free Legal Aid'. Due to financial constraints, the provision of secondary legal aid was

postponed until 1 January 2017. The rate of recognised asylum seekers in Ukraine increased in 2014. The number of Ukrainian citizens asking for international protection in the EU also increased compared to 2013.

Continued progress was made on preventing and fighting **trafficking in human beings**. The size of the trafficking in human beings department within the police, set up in 2013, increased, to a total of 470 people. As a consequence, 88 cases of trafficking in human beings were under investigation in 2014, of which 68 were taken to court. Collaboration between government and NGOs continued to develop. A memorandum of understanding was signed to facilitate the government and NGOs working together on issues relating to trafficking in human beings. Funding for NGOs dealing with trafficking in human beings remained limited. The EU-Institute of Migration MIGRECO project added three more regions to the national referral mechanism.

As regards preventing and fighting organised crime, the 2011 strategy for state policy on fighting **organised crime** was replaced by a new state strategy on combating organised crime, covering the period until 2017.

The State Service on **Drugs** Control, an institution created in 2011 to combat illicit drug trafficking, developed a strategy to combat drug use. However, the 2014 implementation action plan was not approved by the government

In line with the 2013 **data protection** legislative reforms, the Ukrainian Ombudsman (the Commissioner for Human Rights) was entrusted on 1 January 2014 with responsibility for personal data protection. Amendments both to the data protection law and to the law on the ombudsman, notably extending the powers of the ombudsman to cover the private sector and including the notion of consent by the personal data subject, were adopted by parliament in May.

Further meetings took place with **Eurojust** and steps were taken towards the conclusion of the cooperation agreement.

6. TRANSPORT, ENERGY, ENVIRONMENT, CLIMATE CHANGE, INFORMATION SOCIETY, RESEARCH AND DEVELOPMENT AND INNOVATION

There was little progress on implementing Ukraine's 2010 national **transport** strategy. Some progress was made towards the **approximation of transport legislation** and the implementation of international transport conventions, with Ukraine assessing the gaps relating to existing legislation and standards and starting to draft amendments to laws, in particular in the road and maritime transport sectors.

The State Aviation Administration revoked the certificates issued to Donetsk, Luhansk and Mariupol airports, in view of concerns about passenger safety and its lack of control over aviation activity in the regions. The EU-Ukraine **common aviation area agreement**, which had been initialled in the margins of the Vilnius summit in 2013, remained unsigned due to a pending decision by the Council of the European Union. Ukraine remained ready to sign the agreement as soon as possible

Some progress was made on **rail transport reform**. In June, the Cabinet of Ministers of Ukraine approved plans to privatise Ukrainian Railways. This was scheduled for January 2015, pending the completion of an inventory of its assets. Safety, in particular of **road transport**, remained a significant problem and required far more work.

Ukraine suffered major damage to its **transport infrastructure** in its eastern regions, in particular to rail tracks. In September, parliament ratified the guarantee agreement with the European Investment Bank to construct the 1.8 km Beskid railway tunnel, which was a precondition for the entry into force of the financial agreement between Ukrainian Railways and the European Investment Bank.

Political developments directly affected **energy** policy. The new government decided in April to revise the energy strategy, as the version published earlier in the year did not adequately meet the challenges faced by the sector. Work on its revision was still ongoing by the end of the year.

Ukraine's implementation of its **Energy Community** commitments continued to be slow, particularly with regard to the independence of the energy regulator, unbundling, transparency, market opening and third party access. As a result, four dispute settlement cases were opened by the Energy Community Secretariat against Ukraine between February 2013 and April 2014. The most recently opened case concerned Ukraine's failure to adopt state aid legislation. In October the Energy Community Secretariat initiated a preliminary procedure relating to Ukraine's non-compliance with the Energy Community *acquis* on local content requirements. The Energy Community Secretariat closed a dispute settlement case against Ukraine relating to renewable energy in November, after Ukraine submitted a national renewable energy action plan. In September, Ukraine hosted an Energy Community Ministerial Council meeting, which discussed energy security, including gas stress tests, and implementation of the relevant aspects of the 'Third Energy Package'. While work intensified towards the end of the year on preparing laws that complied with the Third Energy Package, in particular on gas, there was, regrettably, a marked setback in applying EU energy market principles in adopting a decree monopolising the supply of gas. The government justified this measure as a necessary step in view of the energy crisis.

The national **energy regulator** was subject to political intervention, as the existing regulatory bodies for energy and public utilities were abolished and their staff were dismissed by order of the Ukrainian President. A new regulatory commission was established but relevant legislation (which would have helped ensure that the newly created National Commission for State Regulation of Energy and Public Utilities has all of the regulatory powers and independence required under the EU 'Third Energy Package') was not adopted.

In August, problems regarding supplies of coal from the area held by illegal armed groups led the government to impose emergency measures affecting the **electricity** market (resolution No 372 and instruction No 764-p). The crisis was expected to slow progress towards electricity market liberalisation.

In April the **gas** transportation system operators in Ukraine (Ukrtransgas) and Slovakia (Eustream) signed a memorandum enabling Slovakia to supply gas to Ukraine. Subsequently, natural gas was supplied from the EU to Ukraine via pipelines from Poland, Hungary and Slovakia. The new government showed willingness to move forward with significant gas sector reforms, and parliament passed a law permitting the Ukrainian gas transportation

system to be leased to an operating company. Ukraine endorsed the terms of reference for joint EU-World Bank assistance on restructuring Naftogaz. In December 2014 the EIB and EBRD signed loan agreements for EUR 150 million for a first project on the modernisation of the Ukrainian Gas Transit System. However, as with electricity, Ukraine did not develop gas legislation that complied with the EU's 'Third Energy Package' or provisions ensuring the independence of the energy regulator, which it had agreed to do under its Energy Community commitments.

National action plans on **renewable energy** and on **energy efficiency** were drafted and the Energy Community Secretariat was consulted on them. The national renewable energy action plan was adopted. Parliament sent draft legislation on efficient use of fuel energy resources, energy efficiency in buildings and energy service companies back to the relevant ministries for revision, and **renewable** energy legislation was not amended to bring it into line with Energy Community requirements.

Ukraine participated fully in carrying out the nuclear safety stress tests in cooperation with the European Commission. In order to prepare for the ENSREG workshop planned for April 2015, the National Action Plan of Ukraine was updated. It now specifies the current status of safety improvement measures and schedules for their implementation.

Ukraine received loans from the European Bank for Reconstruction and Development and Euratom to support the modernisation of Ukraine's 15 nuclear units, which supply roughly half of its electricity. Construction of the new safe confinement shelter over the fourth destroyed unit at Chernobyl progressed well.

There was no comprehensive policy in Ukraine to prevent and mitigate **climate change**. Lack of funding remained a major obstacle to modernising infrastructure and cutting greenhouse gas emissions. EU assistance is provided through the regional Clima East project, in particular for strengthening the capacity of policymakers and for the development of monitoring, reporting and verification capacities and other mitigation policies.

Ukraine made generally good progress in implementing its 2010 national **environment** strategy, for which the EU provided budget support. However, the lack of a law on environmental impact assessments remained a concern, as draft legislation which was introduced in parliament in May, failed to make further progress. As a result, Ukraine continued to fail to comply with the Espoo and Aarhus Conventions. In August Ukraine published a detailed national strategy on approximation, to transpose in full the environment-related *acquis* provided in the Association Agreement. Parts of the EU *acquis* on emissions, waste and water management referred to in the Association Agreement were slowly transposed.

Ukraine sought closer integration of its **civil protection** mechanism with that of the EU, and made progress in dealing with its legacy of industrial chemicals and pesticides. Nevertheless these issues still needed significant attention to prevent major pollution or accidents. Ukraine also worked with the EU on chemical, biological, radiological and nuclear defence and bio-safety issues.

For the first time in Ukraine, a dedicated agency (the E-Governance Agency) was appointed to coordinate **information society** activities, dealing with policies, legislative reforms and regulations regarding information communication technologies. A consultative working group

was set up to support the agency, consisting of representatives of public institutions, non-profit organisations and universities. In July a presidential decree was issued to:

- improve the regulation of information society;
- establish conditions for the development of national information infrastructure and resources; and
- provide more people with internet access.

On **research and innovation**, the EU-Ukraine cooperation agreement on science and technology was renewed in 2014. Ukraine expressed its willingness to take part in the EU-funded 'Horizon 2020' research programme, and a bilateral agreement was successfully negotiated in November 2014. Ukrainian entities participate in several collaborative projects under the 7th EU Research Framework Programme and in the first Calls for Proposals under 'Horizon 2020'. Ukraine is also active in the Eastern Partnership Panel on Research and Innovation.

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

The law on **higher education** was adopted in July and came into force in September. In line with the Bologna process, the law introduced a three-cycle higher education system, a National Qualification Framework, an independent quality assurance mechanism, the European credit transfer and accumulation system and substantially increased autonomy for universities. Work began on an implementation action plan and a statute for the Quality Assurance Agency for Higher Education as well as on developing a new law on education, aimed at setting the fundamental principles of the education system at all levels and making provisions on governance, funding and equity. In addition, new legislation is envisaged to cover specific sections of the education sector, such as primary, secondary and vocational education.

In June, wide public discussion began on the state programme on **youth** policy for 2016-20, which involved of more than 200 NGOs focusing on young people. Civil society experts were also invited to participate in developing new support mechanisms for youth organisations.

Ukraine participated in the **Tempus** programme with 60 on-going projects. 786 students and staff were selected for mobility within partnership supported by **Erasmus Mundus** and 31 masters students and six PhD candidates were selected for joint master's degrees or joint doctoral programme. 11 applications were selected for funding under the Marie Skłodowska-Curie actions (MSCA) under 'Horizon 2020'. Ukraine also participated in the **eTwinning plus** project with 86 schools. **Young people** and youth organisations benefited from the **Youth in Action** programme, with 2 349 people taking part in mobility projects and 264 in the project for young people and decision-makers in this field.

The Ministry of Culture expressed interest in Ukraine's participation in the **Creative Europe** programme. Ukraine hosted the conference "Cultural Policy in Europe Today: Finance, Management, Audience Development" on the strategic role of **culture** in the Eastern Partnership countries. Ukraine also participated as a leader or partner in 10 regional projects within the Eastern Partnership Culture programme.

There was no progress on **public health**. International donors, including the World Health Organisation, were alarmed by the critical situation with regard to medicine procurement and

supply, which put at risk the implementation of the 14 national programmes focused on the most dangerous diseases, including haemophilia, TB, AIDS and polio. There was a shortage of lifesaving medicines from November 2014, especially in the area of conflict in the Donetsk and Luhansk regions. According to the Joint United Nations Programme on HIV and AIDS, the HIV/AIDS epidemic in the country got worse, and the number of cases registered increased by 12 % in 2014.

In June 2014, representatives of Ukraine's civil society participated in the HIV/AIDS Civil Society Forum, in Luxembourg. The government started negotiations with the Global Fund for comprehensive support to combat HIV/AIDS and TB in Ukraine. It announced that the State Service for Socially Dangerous Diseases would be abolished and its functions would be transferred to the Ministry of Health. In March, the new government agreed with the EU that specific areas of cooperation should be identified in line with the provisions of the Association Agreement. The national plan for the implementation of the Association Agreement included many actions related to the health sector. These needed to be assessed and specific actions needed to be prioritised.

Ukraine continued its technical cooperation with the European Centre for Disease Prevention and Control (ECDC), nominated a national correspondent for relations with the ECDC, and participated in the National ECDC Correspondent meeting in May. It also attended technical workshops on HIV/AIDS and vaccine preventable diseases, and the annual European scientific conference on applied intervention epidemiology.
