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HIGH REPRESENTATIVE
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Association Implementation Report on Ukraine

Association Implementation Report on Ukraine

1. Summary

In line with the revised European Neighbourhood Policy, this report sets out the state of play of Ukraine's commitments under the EU- Ukraine Association Agreement since the last meeting of the EU-Ukraine Association Council, which took place on 19 December 2016 and ahead of its next meeting of 8 December 2017.

Ukraine has continued to contribute actively to the European Neighbourhood Policy Review implementation, as reflected in the EU Report adopted in May 2017, and to the Eastern Partnership, including through its contribution to the preparation of the upcoming Eastern Partnership Summit scheduled for 24 November in Brussels. Ukraine engaged in developing concrete proposals for the period up to 2020, with some milestones to be achieved already for this year's Summit, captured in the Joint Staff Working Document "Eastern Partnership - 20 Deliverables for 2020". They also continued to actively engage in the activities of the EaP through the multilateral Platforms and Panels.

After almost three years of provisional application of different parts of the EU-Ukraine Association Agreement, including its Deep and Comprehensive Free Trade Area (hereinafter AA/DCFTA), the agreement entered into force on 1 September 2017. Effective and swift implementation of the AA/DCFTA provides a clear path for Ukraine's political association and economic integration with the EU. On 11 June 2017, a visa free regime for short term stays in Europe¹ for Ukrainian citizens holding biometric passports came into force. This measure has facilitated people-to-people contacts and strengthened business, social and cultural ties between the EU and Ukraine.

In 2017, Ukraine has continued to implement structural reforms, generating positive trends in the economic and social sphere despite internal and external challenges. The illegal annexation of Crimea and Sevastopol by the Russian Federation and the conflict in the east of the country provoked by Russia's destabilising actions have continued to pose significant challenges to Ukraine's reform process from a political and economic perspective, in addition to causing significant human suffering. Ukraine has continued actively to seek peaceful legal and political solutions in this area. The implementation of the Minsk agreements remains the basis for a sustainable political solution to the conflict, respecting Ukraine's independence, sovereignty and territorial integrity.

The Ukrainian authorities have advanced the reform agenda, guided by the AA/DCFTA and the Association Agenda. The Association Council, the Association Committee including its trade configuration and various subcommittees continue to play a crucial role in monitoring the implementation of the AA/DCFTA. Consultations on the reform process are regularly held with civil society and professional organisations. In April 2017, the Ukrainian Government identified five priority sectors for reforms: pension, privatisation, health care, land ownership, and education. Key strategic documents underpinning the reform process have been adopted: the Government's action plan 2017-2020, a new Government action plan for the implementation of the AA/DCFTA and a corresponding web-based monitoring tool was

¹ All EU Member States (except Ireland and the UK) as well as the four Schengen-associated countries Iceland, Lichtenstein, Norway and Switzerland.

launched in October 2017. In the framework of the post-visa liberalisation monitoring mechanism, Ukraine presented in September its first report on the fulfilment of Visa Liberalisation Action Plan benchmarks.

Considerable legislative reforms have taken place in the fight against corruption and new specialised anti-corruption institutions have been set up in Ukraine. Work on implementation of anti-corruption efforts continued over the past year, while further substantial work is still outstanding. Some of the new Ukrainian agencies already participate actively in the fight against corruption, while others remain to be fully operationalised. Ensuring sustainable and tangible changes in the governance system to eliminate corruption opportunities and ensure proper prosecution and punishment for corruption-related crimes remains one of the key challenges Ukraine faces in its reform process hindering the improvement of the business and investment climate.

The year 2017 also witnessed important legislative developments in the spheres of the electricity market, energy efficiency, environment, education and decentralisation. Key reforms such as pensions, healthcare and food safety were initiated. Justice sector reform, enabled by the adoption of constitutional amendments back in June 2016, continued with the adoption of a new law on the Constitutional Court and the selection of new judges to the Supreme Court. This allowed the gradual renewal of the judiciary system through mandatory exams for all judges of the newly constituted Supreme Court and now also lower courts. The implementation of the Strategy on Public Administration Reform has advanced and the reforming of law enforcement bodies continues.

Resolute policy actions taken by the authorities, supported by international partners, have reduced external and internal imbalances and the macro-economic situation continued to stabilise in 2017. As a result, the economy has continued to grow, though at a relatively slow pace. The local currency has remained stable and the international reserves of the central bank have increased steadily.

In September 2017, the successful stabilisation of Ukraine's economy coupled with the reforms the government has undertaken was marked by its return, after four years, to the international capital markets. Ukraine was able to raise USD 3 billion with a 15-year maturity.

Ukraine has continued to face several trade restrictive measures imposed by the Russian Federation, which have affected its overall trade. Thanks to the DCFTA, Ukrainian and EU businesses have received stable preferential market access. The EU has reinforced its position as Ukraine's main trade partner and Ukraine's overall trade with the EU increased by 28.4% in the period January–July 2017 compared to the same period in 2016. Ukraine has slowly reoriented its exports towards the EU.

Ukraine has the potential to attract more foreign investments. International rankings point to legal and judicial unpredictability and an inadequate institutional framework as the main obstacles to improving the business and investment climate.

2. Political dialogue, good governance and strengthening institutions

2.1 Democracy, human rights and good governance

The implementation of the 2015-2020 National Strategy and Action Plan on **Human Rights** is ongoing, but Ukrainian authorities have missed some of the deadlines that were set,

encountering difficulties in defining clear responsibilities between different institutions and earmarking a dedicated budget. The mandate of the **ombudsperson** (Parliamentary Commissioner for Human Rights) expired in spring 2017. A new appointment procedure for the ombudsperson, not in line with the Paris Principles, was adopted in July 2017.

In 2017, the rights of the Crimean Tatars in the illegally annexed **Crimea** have continued to be gravely violated through the shutting down of Crimean Tatar media outlets, the banning of the activities of the Mejlis, their self-governing body, and the persecution of its leaders. Human rights and freedom of the media are also massively violated in **Non-Government Controlled Areas of Eastern Ukraine (NGCA)**, where there is also a complete breakdown of the rule of law, as reported by the Mission of the Office of the UN High Commissioner on Human Rights. The UN documented new cases of enforced disappearance, particularly in territory not under the control of the government. The most severe cases of torture, ill-treatment and impunity are recorded in the areas not controlled by the Government. At the same time, the Government has also been criticised for cases of arbitrary detention and ill-treatment.

The **humanitarian situation** in eastern Ukraine remains of serious concern and continues to present a challenge to the country. The amount of targeted social assistance to IDPs was increased in September 2017, however a comprehensive and long-term strategy and action plan for the integration of **Internally Displaced Person (IDPs)** is still to be developed to improve the respect of the civil, political and social rights of IDPs, including access to housing, employment and education. The Ministry of Temporarily Occupied Territories and IDPs still needs appropriate resources and empowerment in the decision-making process. Social benefits, including payment of pensions, to some 500,000-600,000 IDPs, had been suspended in early 2016 pending verification of their places of residence: verification procedures have been underway since June 2016. On 13 September 2017, the Government revised the verification requirement, exempting for some IDPs from the verification procedure. On the one hand, the Action Plan for **NGCA**², adopted in 2017 and welcomed by the international community for its aim for inclusiveness, remains to be implemented. On the other hand, the decision by the National Security and Defence Council in March 2017 to "temporarily suspend cargo transfers to and from NGCA (except humanitarian)" which followed the confiscation of Ukrainian companies, including mining companies, by the self-proclaimed "authorities" poses difficulties for the economic aspects of the Action Plan. It adds on existing restrictions imposed by the de-facto "authorities" to humanitarian actors and the government's administrative and legislative obstacles to the freedom of movement. In addition, difficulties to **access essential services such as water and electricity** in the conflict area have intensified. Environmental damage and waterborne diseases remain a real risk.

Gender-based discrimination remains a challenge. In March 2017, the Vice Prime Minister for European and Euro-Atlantic Integration has been appointed to coordinate the Government's gender equality policies and a post of gender policy commissioner has been created. A draft law on the ratification of the Council of Europe Convention on **preventing and combating violence against women and domestic violence** (Istanbul Convention), tabled by President Poroshenko in late 2016, has not been adopted. The National Action Plan on **UNSCR 1325 Women, Peace and Security** is being implemented. The Ministry of

² "Action Plan to Implement Specific Principles of the State Domestic Policy in Relation to Certain Districts of Donetsk and Luhansk Regions Where Public Authorities Temporary Do Not Exercise Its Powers"

Internal Affairs has also launched an anti-domestic violence police unit. For the second year in a row, the **Kyiv Equality March** was held peacefully.

The **language** provisions of the new education law, adopted in September 2017, have sparked protests by representatives of national minorities as it foresees the reduction of scope of instruction in mother tongue at the secondary education level, compared to the previous legislation in force. The Ukrainian authorities submitted the article 7 of the law (language provisions) to the assessment of the Venice Commission.

A new **public broadcaster** was created in January 2017 and a new Director selected. However, it remains under-financed. Instances of **physical attacks against journalists** have persisted, along with impunity for those who committed such crimes. The investigation into the high-profile killing of the prominent journalist Pavel Sheremet in July 2016 has not yet brought results, raising serious questions about the efficiency and transparency of law enforcement institutions.

Work has not been launched to prepare for the ratification of the Rome Statute of the **International Criminal Court**, while the three-year *vacatio legis* constitutional clause remains in application.

In 2017, **local elections** were held in 242 newly amalgamated communities as part of the ongoing decentralisation. Independent civil society observers reported some irregularities, which did not have a significant impact on the overall outcome. **Electoral legislation** for all types of elections remains to be harmonised and consolidated. The appointment of 13 new members of the **Central Election Commission**, to replace those whose mandate expired on 1 June 2014, is pending. The legislation allowing post-election exclusion of candidates from party lists remains to be reviewed in line with the recommendations of the Venice Commission of the Council of Europe. In line with the new system for **public financing of political parties**: the National Agency for the Prevention of Corruption (NAPC) has initiated several investigations into alleged violation of transparency rules on the financial reporting of political parties.

Throughout 2017, **Ukrainian civil society** has played an active role in the promotion, design and oversight of reforms, especially in the areas of anti-corruption, judiciary, decentralisation, energy, and health. Some civil society actors denounced increased pressure on their activity, undermining their work and credibility. The Eastern Partnership Civil Society Platform, the EU-Ukraine Civil Society Platform foreseen by the AA and other members of civil society participated actively in consultative meetings with a wide range of Ukrainian institutions.

New laws related to **decentralisation** were adopted to facilitate the amalgamation process. As a result, 249 amalgamated communities were constituted by 29 October 2017, increasing the number of amalgamated communities to 614, which represent 20% of Ukraine's territory. Local budgets have continued to increase, while local communities have continued to receive State funding for local development. The rules for the distribution of the State fund for regional development, established in the law, were not followed.

The 2016-2020 **Public Administration Reform** (PAR) Strategy is being implemented steadily, albeit in some areas at a slow pace. Civil Service reform is ongoing: the concept of Reform Staff Positions, focusing on the transparent and merit-based recruitment of officials for positions that are key for the reform process, is gradually being rolled out in ten pilot

ministries, two agencies and in the Secretariat of the Cabinet of Ministers. A comprehensive salary, policy-making and policy cycle management reform, a new law on general administrative procedure, a human resource management information system, and e-Governance are also being developed and implemented.

2.2 Foreign and security policy

The **security situation in eastern Ukraine** remains very tense and volatile. Despite a series of renewed commitments to the ceasefire, the situation is marked by daily ceasefire violations on both sides, use of heavy weapons, destruction of critical civilian infrastructure and continued mining. According to estimates of the Office of the United Nations High Commissioner for Human Rights, by 15 August 2017, more than 10,225 people including more than 2,800 civilians have been killed, and 25,541 have been wounded since the conflict started in spring 2014.

The Parliament adopted in first reading on 6 October 2017 the **law "On State Policy Elements to Ensure Ukraine's Sovereignty of the Temporarily Occupied Territories in Donetsk and Luhansk Regions of Ukraine"**. The law defines the legal regime in certain districts of Donetsk and Luhansk regions as a temporarily occupied territory of Ukraine. Russia is declared the occupier and aggressor of certain areas of Donbas with reference to the Hague IV Convention and the Fourth Geneva Convention. The law also modifies the military and civilian command chain, replacing the earlier anti-terrorist operation.

Implementation of the Minsk Agreements remains stalled. Throughout 2017, the four working groups under the **Trilateral Contact Group** met in Minsk on a regular basis to discuss security, political, humanitarian and economic issues related to conflict settlement, in line with the Minsk Agreements, notably the Package of Measures agreed in 2015. Attempts have been made to achieve progress on all tracks of the Minsk Agreements in the **Normandy format**. In September, in line with the provisions of the Minsk agreements, Ukraine prolonged the validity of the law on special self-governance arrangements for certain areas of the Donetsk and Luhansk regions by one year. The **Organisation for Security and Co-operation in Europe (OSCE) Special Monitoring Mission (SMM)** has continued to report regularly on the security situation despite worsened conditions (freedom of movements and safety of the monitors) under which it fulfils its mandate, hampered in particular by the separatists which culminated in the death of an SMM member in April in NGCA.

Ukraine has actively sought **diplomatic and legal solutions** to the crisis, following the illegal annexation of Crimea and Sevastopol by Russia and the conflict in the East, including through legal proceedings under various UN Conventions and Treaties. On 19 April, the **International Court of Justice** delivered an Order on Ukraine's request for the indication of provisional measures concerning application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (in the on-going case of Ukraine v. Russian Federation).

In 2017, the EU has continued to provide unprecedented support, among others through the **EU Advisory Mission for Civilian Security Sector Reform (EUAM)**.

Ukraine has continued cooperation with the international investigations and criminal proceedings related to the downing of **flight MH17** in 2014. On 5 July 2017, the Joint

Investigation Team, comprised of Australia, Belgium, Malaysia, the Netherlands and Ukraine, announced the decision of the countries involved to opt for the Dutch national justice system to bring those responsible to justice.

In 2017, until **13 October**, Ukraine aligned with **23** out of the **26 EU Common Foreign and Security Policy** declarations it had been invited to support. Ukraine has continued to cooperate with the EU on regional and international issues. Ukraine has continued to implement the Administrative Arrangement between the **European Defence Agency** and the Ministry of Defence of Ukraine in areas such as standardisation and Single European Sky.

2.3 Justice, Freedom and Security

On 11 June the **visa free regime** for short term stays for Ukrainian citizens holding biometric passports came into force. During the four months of the visa-free regime, some 1.8 million Ukrainians travelled to the EU with biometric passports, of which 283 thousand without a visa and only 61 people were denied access. Since the beginning of 2017, more than 1.9 million Ukrainians received biometric passports. Possession of a biometric passport is a requirement to benefit from the visa-free regime and the demand for biometric passports increased sharply in the month preceding visa liberalisation. It remains high and continues to pose a challenge for the State Migration Service.

The National Anti-Corruption Bureau of Ukraine (**NABU**), supported by the Specialised Anti-Corruption Prosecutor's Office (**SAPO**), has launched 410 investigations, including against well-known public figures, while the conviction rate remains low. By mid-October 2017, the National Agency for Prevention of Corruption (**NAPC**), in charge of the **electronic asset declaration** system, only managed to verify 61 out of around 1.2 million e-declarations submitted so far. This is due to a number of problems, both internal and external to the Agency, which remain to be addressed. Notably, automated methods to verify e-declarations are to be introduced, while the NAPC is to be granted access to other state registers to cross-check the information submitted. The extension of the requirements for **e-asset declarations to NGO activists** and international experts working in the field of anti-corruption remains to be lifted as a matter of urgency. Any additional reporting requirements imposed on NGOs would have to be in line with the expert opinion of the Council of Europe.

The implementation of **justice reforms** continued. The perceived level of judicial independence remains very low but is increasing according to the latest survey by the World Economic Forum of businesses' perceptions³.

In 2017, the Parliament, as provided for by the Constitution, adopted a new law establishing a **Constitutional Court**, granting individuals the right to question directly the constitutionality of laws, and foreseeing a competitive system for the selection of the judges. The latter was however criticised by experts and civil society for its lack of transparency and excessive presidential power.

The High Council of Justice in Ukraine decided on 29 September 2017 to propose 111 candidates for appointment by the President as judges at the new **Supreme Court**. The selection process was transparent overall. However, the integrity, independence and

³ The WEF Global Competitive Report 2016-2017 ranks Ukraine in the 129th place among 138 countries. During the previous reporting period, Ukraine was in the 132nd place among 140 countries.

professional record of some of the proposed candidates has been questioned by the Public Integrity Council which *inter alia* alleged discrepancies between these candidates' wealth and their legitimate income. **The re-evaluation of judges**, which started in 2016, has been suspended pending the Supreme Court selection, but already led to the resignation of many judges. The recruitment for the 1st instance courts of 600 judges (out of 2000 vacant posts) has started. The introduction of private law enforcement officers has also begun, marking a decisive step in the implementation of the reform of the enforcement of judgments.

Ukraine's current legislation envisages the establishment of a **High Anti-Corruption Court** (law on the Judiciary, adopted in June 2016). According to the recommendation of the Venice Commission of October 2017, the President of Ukraine should table a new draft law establishing this court as an independent and separate institution from the existing judiciary structure. The EU expressed its readiness to support the preparatory work both in the legislative and implementing phases.

In the **area of law-enforcement**, the new law on the security sector reform, elaborated in 2016 with international support including from EUAM, is pending the approval of the President. The **National Police** of Ukraine (NPU) is in the process of reforming the three pillars of policing: 1) developing a comprehensive concept of public order policing and by rolling-out the reform of community policing country-wide, 2) strengthening its capacity for criminal investigation by putting operatives (detectives) and investigators under the same command and 3) reinforcing the principles of intelligence-led policing, a key instrument in preventing and combating organised crime. However, in a number of important areas, there is still a lack of clear reform concepts and the delineation of powers between law enforcement agencies remains unclear. The strategy for the reform of the **Security Services** of Ukraine remains to be adopted. The **State Bureau of Investigation** also remains to be set up, pending the selection of its head. In the meantime, the **Prosecutor General's Office** (PGO) will continue to assume investigative functions for an interim period of two years. The PGO adopted a "roadmap" for further reform, which does not foresee a re-evaluation of prosecutors at regional and central level.

Following the 2016 and 2017 cyber-attacks against Ukraine's civilian infrastructure, cooperation has strengthened to improve Ukraine's **cyber security** capacity, notably: 1) to develop an appropriate legislative and policy framework; 2) to reform the national cybersecurity system and foster public-private partnerships and 3) to develop IT skills.

Reforms in the **fight against money laundering and the financing of terrorism** continued across the Ukrainian banking sector. The National Bank identified policy measures required to bring the Ukrainian banking regulation in compliance with the Basel Core Principles and EU directives.

On 12 July 2017 the agreement between Ukraine and **EUROPOL** on operational cooperation was ratified. It fosters the cooperation, enables exchange of information and allows Ukraine to participate in joint investigative activities. On 8 February 2017 the agreement on cooperation with **EUROJUST** was ratified. This agreement allows Ukraine to benefit from the exchange of operational data to combat serious crime and terrorism.

On 12 July 2017, Ukraine adopted a new **State Migration Strategy 2017-2025**. It was prepared with the support of the EU and the International Organisation for Migration (IOM). On 17 July 2017 President of Ukraine Petro Poroshenko and Prime Minister of Moldova

Pavel Filip launched the joint Kuchurhan-Pervomaisk border crossing point (BCP). The establishment of full **Integrated Border Management** remains contingent to the introduction of an automated information exchange system.

3 Economic development and market opportunities

3.1 Economic development

Ukraine's economy has continued the recovery started in 2016, following the recession of 2014-2015. GDP grew by 2.5% in the first quarter of 2017 and by 2.3% in the second quarter of the year. Economic stabilisation is supported by prudent macroeconomic policies and significant international financial and technical assistance, including the Macro-Financial Assistance programme provided by the EU. The exchange rate of the local currency has further stabilised and international foreign exchange reserves have been steadily growing.

The Strategy and Action Plan for **Agriculture and Rural Development** for 2016-2020 is on the agenda to be adopted by the Parliament still in 2017. Despite plans to carry out comprehensive **land reform**, only preparatory technical steps were taken. Land rights registration was transferred from state registrars to private notaries, auctions for rental of state land were introduced, and several e-services were opened. Simplifying procedures for land registration through an electronic registration system were put in place. VAT exemptions for agricultural enterprises was partially abolished and amended and, to some extent, replaced by direct payments from the state budget. Work is ongoing to correct the cadastre and to improve environmental practices in line with AA obligations, although understanding or implementation of good agricultural or environmental practices in agriculture remains low on the agenda. Sustainable management of **forestry and fisheries** resources, as well as inspection and monitoring to reduce unregulated and illegal practices remain to be addressed.

According to the World Bank, Ukraine has strongly improved its **business environment** since 2010 (80th out of 190 countries in the 2017 Doing Business survey, up from 142nd out of 183 countries in 2010). Foreign direct investment remains low (current FDI stock at 70% of the 2013 level), hindered by legal and judicial unpredictability, including cases in which law enforcement does not intervene effectively in response to corporate raids, an inadequate institutional framework, as well as the conflict in the East of the country.

The institutional framework of the **National Bank of Ukraine** (NBU) has been strengthened in the beginning of the year, and the NBU cleaned up a big part of the banking sector. Notably, a major systemic bank (Privatbank), with 18 percent of all bank assets, was nationalised in December 2016, raising the shares of state-owned banks to over 50 percent of all banking assets. A new head of NBU remains to be nominated after the resignation of Chairwoman V. Gontareva in April 2017. The public authorities' current priority is to ask banks to develop a strategy for dealing with non-performing loans (NPLs) and asset recovery, to prepare a long-term strategy to exit state-owned banks and to revive lending to the real economy. The upgrading of banking and insurance legislation is on-going.

In the **non-banking sector**, a draft law on financial regulatory reform is pending a second reading in the Parliament since August 2016. A new law on consumer credit came into force on 10 June 2017, approximating to the EU legislation on credit agreements for consumers.

A new **Public Finance Management** (PFM) strategy was adopted in February 2017, followed by an Action Plan in May 2017. The strategy aims at making the budget process a more strategic exercise introducing medium-term budgeting and improving programme-based budgeting. It also aims at establishing fiscal space by eliminating inefficient public spending and by strengthening revenue mobilisation. In June a mid-term Budget Declaration 2018-2020 was submitted to the Parliament. Ukraine has launched the reform of **internal control of public finances, including internal audit**, shifting the Central Harmonisation Unit for Public Internal Financial Control from the State Audit Service to the Ministry of Finance. Implementing modern principles of internal financial control in line ministries remains a challenge.

Efforts to advance the **tax and customs administration reform** were made in 2017. Tax code amendments on the Value Added Tax (VAT) refund system were adopted in December 2016. Increased transparency of VAT refund payments has been achieved through the launch in April 2017 of a single automated electronic VAT refunds registry. A Reform Concept for the State Fiscal Service was prepared in March 2017. A draft action plan on Customs reform was published in June 2017. A medium-term reform strategy of the State Fiscal Service of Ukraine is under preparation, with international support. Adoption of draft laws aligning the Ukrainian customs legislation on authorised economic operator, common transit procedure and enforcement of intellectual property rights with those of the EU standards remains to be adopted by the Parliament. A draft law on establishing new fiscal police is still under consideration by the National Reforms Council.

The mandate and authority of the **Accounting Chamber of Ukraine** (ACU) remain limited. The Parliament has not yet appointed the Members of the Board, delaying reform of the ACU.

A revised law on **statistics** aiming at increasing the professional independence of the State Statistical Service (SSSU) is being considered as one of 30 priority laws to be passed by the Parliament. A web portal is planned for development in 2018 to better disseminate statistical information.

Ukraine adopted a strategy for the development of **small and medium entrepreneurship** in May 2017. The Action plan with specific Small and Medium Sized Enterprises (SMEs) support measures was due to be adopted by the end of 2017. As a result of the analysis done by the EU-supported Better Regulation Delivery Office, efforts to improve the regulatory framework for SMEs continued with the cancellation of a number of problematic or outdated legal acts.

With regard to the reform of **state owned enterprises** (SOEs), a package of resolutions to improve the corporate governance of strategic SOEs was adopted in 2017. SOEs were classified into six categories: to remain state owned, to be privatised, to be exploited under concessions, to be liquidated, and those which cannot continue their economic activity in illegally annexed or non-Government controlled territories. A privatisation law reducing the lead-time of individual privatisation procedures and enabling the use of market-based valuations is pending adoption. Despite these developments the privatisation process remains challenging.

In March 2017, the Concept of the State Policy in the sphere of **Consumer Protection** until 2020 was adopted. It envisages inter alia the harmonisation with EU practices and transposition of EU legislation in this area.

Legislative work continued on aligning the rules on the protection of rights of shareholders, creditors and other stakeholders, **company law, accounting and auditing and corporate governance** policy with EU and international practices. The new amendments on corporate governance in joint-stock companies, adopted in March 2017, strengthened sell-out and squeeze-out rules, and provided additional guarantees to minority shareholders enabling them to sell their securities at market value.

Ukraine is experiencing delays in approximating legislation in the field of cooperation on **employment, social policy and equal opportunities**. Legislation on improving the safety and health protection of workers in mineral-extraction industries has not been adopted despite a 2016 deadline in the AA. The deadline for the approximation of a further twelve EU legal acts expires in 2017. The Government initiated an expert advisory group for monitoring the implementation of the AA in this regard. The adoption of the new Labour Code, including explicit prohibition of discrimination on the basis of sexual orientation and gender identity, by the Parliament was again delayed. In autumn 2017, Ukraine adopted a comprehensive **pension reform**, in line with IMF agreement. The reform aims to address the issue of inadequate and unequitable pension provisions aiming at reducing the Pension Fund deficit. As a first step, pensions for about nine million pensioners were increased in October 2017. The establishment of integrated social services at local level has started. Legislation on collective bargaining that redefines the duration of agreements is pending approval in Parliament. The moratorium on **labour inspections** was lifted in January 2017. Institutional reforms within the State Labour Service, in line with ILO standards, have continued. The overall unemployment rate declined to 9.3% in 2016 (from 12.1% in 2015) to 9.3%, while youth unemployment continued increasing to 23.4% in 2016. Activity and employment rates remain stable at their low levels. Wage arrears remain high including in SOEs and informal employment widespread. To reduce informal employment, the government doubled the minimum wage in January 2017.

3.2 Trade and trade-related matters

After **one year and nine months of provisional application of the DCFTA** as of 1 January 2016, the AA/DCFTA **entered into force on 1 September 2017**. Despite difficult economic circumstances related to the conflict in the East, total trade between the EU and Ukraine increased by 27.1 % between January and August 2017, compared to the same period in 2016. Further EU autonomous trade measures (ATMs) topping up its concessions included in the DCFTA for several industrial goods and agricultural products (wheat, maize, barley, barley groats and pellets, natural honey, processed tomatoes, grape juice, oats) were adopted by the European Parliament and the Council in September⁴ and entered into force on 1 October 2017.

On 16 May 2017, the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM) decided that after completing internal procedures Ukraine will be able to join the PEM Convention on 1 January 2018. This will open the way to enhancing Ukraine's trade with the Convention signatories by means of diagonal cumulation of rules of origin for goods.

⁴ The Regulation (EU) 2017/1566 of the European Parliament and of the Council of 13 September 2017 on the introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement was published in OJ L 254 on 30.09.2017.

Meanwhile, the EU has repeatedly called on Ukraine to repeal an **export ban on raw wood** (applicable since autumn 2015) because of its incompatibility with Ukraine's World Trade Organisation (WTO) as well as its DCFTA commitments. In September 2017 the Ukrainian authorities confirmed that the increased **export duties on metal scrap** (also incompatible with Ukraine's WTO and DCFTA commitments) will not apply in case of exports from Ukraine to the EU.

The implementation of the Strategy for the Development of the Technical Regulation System until 2020 and its related Action Plan (adopted in 2016) has started with the view to implement the AA and - in the future - an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA). The legal framework for a modern **National Quality Infrastructure**, in place since the end of 2016, requires efficient implementation. Both the National Standardisation Body and the National Accreditation Agency of Ukraine are operational. The law on Technical Regulations and Conformity Assessment, which entered into force in 2016, has not yet been amended in terms of criteria for the designation of conformity assessment bodies. The adoption of a Law on Market Surveillance is pending. By September 2017, Ukraine had adopted, out of total of 22,209 operating national standards, 12,553 national standards that are based on international and European standards. The implementation of newly-adopted standards remains a challenge.

Regarding **digital economy and society**, several laws were prepared to transpose EU rules applicable to telecommunication services, ensuring a level playing field in the telecom market and the effective allocation and use of radio frequencies. The law on Electronic Commerce was amended on 23 March. The new edition of the Technical Regulation for Radio Equipment and Telecommunications Terminal Equipment" was adopted on 24 May and will enter into force in April 2018. The first reading of the draft Law "On Electronic Communication" is pending in the Parliament since December 2015. The draft law "On Electronic Trust Services" passed first reading in September 2016 and is awaiting second reading. A tender for use of radio frequencies for 4G technologies should be launched before the end of 2017.

On 30 September, following the adoption of Presidential decree, the selection of judges to the High Court on **Intellectual Property Rights** (IPR) has been launched. The integrity, independence and professionalism of the judges will be of essence. Most of the legislation to reform the IPR system, in line with Ukraine's commitments in the DCFTA, is pending approval in Parliament. A package of four laws on Collective Management Organisations, on the creation of the new IP office, on inventions and utility models, and on copyright and related rights remains to be submitted to the Parliament. The current legislation and judicial system do not ensure effective enforcement of IPR rights. The counterfeiting of chemicals constitutes a serious problem for Ukraine. On the other hand, the fight against **Internet piracy** has started to bring results and the law on Cinematography adopted in spring 2017 introduced better controls to prevent illegal content being shown on websites based in Ukraine.

Public procurement (PP) continues to be one of the flagship reforms of the Government. On the basis of the PP reform Strategy 2022, work has started on a significant approximation package to be adopted in 2018. Ukraine has continued to develop further the electronic procurement system "Prozorro". A pilot initiative on centralised procurement was launched in 2017 for the central government entities and regionally in the Donetsk region. The

professionalisation efforts through on-line PP training for public officials, the business community and civil society achieve high take-up and bring successes. The formal decision of the EU-Ukraine Association Committee in Trade configuration regarding the update of the regulatory approximation Annexes to the AA and comprehensive roadmap on public procurement remains to be adopted, pending Ukraine's internal procedures.

In 2017, the Antimonopoly Committee of Ukraine (AMCU) pursued its efforts to align the Ukrainian **competition** framework with the DCFTA. The most notable development was in the field of State Aid. As of 2 August 2017 (in advance of the deadline in the AA/DCFTA) new State Aid measures must be notified to the State Aid control body (the AMCU). However, "compatibility criteria" which constitute the basis for approving or prohibiting State Aid measures remain to be adopted.

During 2017, the State Service of Ukraine for **Food Safety and Consumer Protection** has become almost fully operational. On 17 July 2017, the Ukraine's proposal of the list of EU acquis regarding sanitary, phytosanitary and animal welfare, to which they intend to approximate (SPS strategy) was endorsed by the EU⁵. When adopted by the sanitary and phytosanitary management subcommittee, by the end of 2017, it will become an integral part of the AA (Annex V). The drafting and adoption of new SPS legislation has been simplified resulting in more than 90 EU legal acts either having already been approximated in Ukrainian legislation or being in the process. The law on State Control for food, feed, animal health and animal welfare, adopted in July 2017, will come into force in April 2018. Once implemented and enforced, this will establish an EU-equivalent system of official control and veterinary checks in Ukraine. Draft laws on Food Safety and Hygiene and on Food Information for Consumers remain to be adopted by the Parliament. Negotiations in relation to the design of certificates for animal products (notably poultry and dairy) exported from the EU into Ukraine were completed in early autumn. Some outstanding **SPS trade irritants** remain to be addressed by the Ukrainian authorities.

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

In July 2017, the EU and Ukraine approved their Annual Work Plan 2017 to implement the 2016 Memorandum of Understanding on a **Strategic Energy Partnership**. On 18 August 2017, the Ukrainian Government approved a new Energy Strategy of Ukraine 2035.

During the 2016-17 winter period, **gas transit** through Ukraine to the EU continued to be reliable and smooth despite continued difficulties with pressure and volume fluctuations. Ukraine continued to cover its domestic **gas import needs** through imports from the EU and did not import gas directly from Russia.

The decision by the National Security and Defence Council in March 2017 to "temporarily suspend cargo transfers to and from NGCA" interrupted **anthracite coal supplies** from NGCA.

A law on **Electricity Market**, moving from a single buyer model with cross-subsidised to a competitive market in line with EU legislation, was adopted by the Parliament and entered into force on 11 June 2017. It should start operating in 2019. The Ukrainian network operator

⁵ Council Decision (EU) 2017/189 of 16 January 2017

Ukrenergo started the reform of the corporate governance structure and signed a cooperation agreement with the European network organisation ENTSO-E.

Implementation of the 2015 **gas law** and the opening of the wholesale market continued. The public service ensuring the supply of a large part of the population was extended in March 2017 for one year. In autumn 2016, the new gas transmission system operator Main Gas Pipeline of Ukraine (MGU) was created in line with the unbundling plan of the Government for the gas sector. The Government has also launched the selection of MGU Supervisory Board members. The preparations for the transfer of assets to the new company, and for storage unbundling are delayed.

Increased energy prices aimed at bringing tariffs to their cost-recovery levels led to a significant increase of subsidies for large parts of the population. In 2017, the cost of social support schemes for utilities will amount to approximately 10% of the Ukrainian budget. An overhaul of the subsidies system is therefore in preparation. Debts for gas and electricity payments are increasing in particularly at distribution and district heating companies' level.

In the field of **energy efficiency**, the Parliament adopted the law on the Energy Efficiency Fund on 6 June 2017 and on 22 June 2017 laws on energy performance in buildings and on commercial heat metering and billing.

Ukraine continued fuel diversification for the supply of its **nuclear** power plants. A draft law re-establishing the full independence of the Nuclear Safety Inspectorate remains to be adopted by the Government.

The Government has continued to prepare a new **National Transport Strategy**, to pave the way for harmonisation with EU legislation and help enhance connectivity through the trans-European transport network (TEN-T). The law on the State Road Fund was adopted in November 2016 and the fund is expected to start operation in 2018. The Road safety strategy 2030 was approved by the Government on 14 June 2017 and an action plan for its implementation is under preparation. However, other key draft laws, including on aviation, road, railway and inland waterways transport aiming at market opening still need to be adopted. A draft roadmap on maritime transport is pending adoption by the Government. The first preparations for the 2018 audit of the International Maritime Organisation have started. Despite the delayed signature of the Common Aviation Area Agreement, the Government on 8 February 2017 adopted an action plan for the implementation of relevant legislation to be harmonised.

Ukraine took the first steps in the implementation of the **Paris Agreement on climate change** by adopting a Climate Policy concept at the end of 2016, while a Low Emission Development Strategy is being prepared. The country is also preparing the introduction of an emission-measurement, reporting and verification system as a first step towards the establishment of a domestic Emission Trading Scheme, as also provided for by the Association Agreement.

The law on **Environmental Impact Assessment** was adopted in May and entered into force in June 2017. It contains, *inter alia*, a list of construction and other economic activities that are subject to a mandatory environmental impact assessment. The law on **Strategic Environmental Assessment** is undergoing adoption in the Parliament. The update of the National Environmental Strategy and its related implementation Action Plan are pending.

Ukraine's first ever **national waste management strategy**, in line with the provisions of the Association Agreement, is pending adoption. The law of Ukraine "On Amending the law on Drinking Water and Drinking Water Supply" aiming at approximation with the **EU Urban Waste Water Treatment Directive and the Drinking Water Directive** was adopted in May and entered into force in June 2017.

Ukraine has progressed in **disaster risk assessment** as well as approximation to the EU flood Directive. Initial results were presented to the European Working Group of Floods. Draft recommendations for flood risk management, in particular on the protocol for transboundary Dniester river basin and risk assessment, have been prepared with EU support. Ukraine has been participating actively in simulation exercises organised at regional level practicing the activation of the EU Civil Protection Mechanism, operational cooperation among different partner countries and EU Member States in case of natural and man-made disasters and Host Nation Support guidelines.

On **Fisheries**, Ukraine is a Cooperating Non-contracting member of the General Fisheries Commission for the Mediterranean (GFCM), participating in regional cooperation on fisheries matters, implementing the 2017-2020 strategy, GFCM management measures, contributing to the BlackSea4Fish project and to the fight against illegal fishing. Ukraine also signed the 2016 Bucharest Declaration towards enhanced cooperation on Black Sea Fisheries and Aquaculture.

5. Mobility and People to People Contacts

Visa liberalisation for Ukrainian citizens entered into force on 11 June. Since than Ukrainians, holders of biometric passports can travel to the Schengen Area without visa.⁶ Ukraine has made its first steps towards a substantial **health sector reform**. The Government adopted in April 2017 comprehensive legislative proposals for healthcare financing reform. In October 2017 the Parliament endorsed the main healthcare financing law and passed in first reading the accompanying law amending the budget code. A Steering Committee has been set up to oversee the implementation of the Concept for public health system development, in line with EU and international recommendations. A framework public health law and national surveillance and laboratory reform strategies are under preparation. The National Public Health Centre is still not fully operational. Its leadership is being re-appointed and key agencies are not yet fully merged in its structure. The Public Health Centre has actively participated to the European Centre for Disease Prevention and Control activities and the MediPIET training programme in field epidemiology. The national strategy on blood safety system is pending adoption by the Government. The adoption of draft law on **tobacco** control did not progress despite obligations emanating from the AA. The Protocol to Eliminate Illicit Trade in Tobacco Products has not been ratified. Likewise, the adoption of necessary legislation on human tissues and cells has been delayed.

Education has been identified as one of the Government's top priorities for 2017-2020. The competence based "New Ukrainian School Concept" is under implementation. The long-awaited law on Education has been adopted in September 2017. The modernisation of vocational education and training has started, including financing. The reform of the higher education has consolidated, yet, the National agency for quality assurance in higher education

⁶ All EU Member States (except Ireland and the UK) as well as the four Schengen-associated countries Iceland, Lichtenstein, Norway and Switzerland.

remains to become operational. Ukraine has continued its active participation in the Erasmus+ programme.

The development of a Road Map for implementation of the 2015 law on **Science** is still ongoing. In the context of Ukraine's association to the EU Research Framework Programme, **Horizon 2020**, an international peer review of the national Research and Innovation system, was conducted and its conclusions published in December 2016. They provided a set of comprehensive recommendations including on public investment in science, the internationalisation of the national science system and national priority setting. To implement Ukraine's association to **Horizon 2020**, a National Coordination Centre was created in November 2016. In August 2017, the Government approved the composition of the National Board of Science and Technology. The creation of a National Research Fund, the introduction of State certification for research institutions and the development of a new system of governance and funding for scientific research are in the pipeline.

The implementation of the association agreement of Ukraine to the **Euratom** Research and Training Programme (2014-2018) proceeded smoothly. The association process enabled closer bilateral interactions in fission research and in fusion. Ukraine became a party to the **EUROfusion** consortium. With EU support, it may increase its participation in Euratom research.

The reform of the **cultural sector** is ongoing with the establishment of the Ukrainian Cultural Fund, functional review of the Ministry of Culture and the establishment of a Department for creative industries. Ukraine continues to participate in the Creative Europe programme.

6. Financial Assistance

In 2017, the EU has continued to provide substantial macro-financial and reform assistance to support Ukraine's stabilisation and reform process in the areas such as: the fight against corruption; rule of law and public administration; economic and private sector development; energy and support for civil society organisations. The EU has so far mobilised over EUR 10 billion (out of its EUR 12.8 billion pledge). The European Commission's Support Group for Ukraine (SGUA) and EUAM have remained actively engaged. Actions in response to the effects of the conflict in eastern Ukraine have also been taken. Since the beginning of the crisis through the Instrument contributing to Stability and Peace, the EU has supported peacebuilding, stabilisation and early recovery efforts with more than EUR 80 million, with a focus on supporting the OSCE Special Monitoring Mission, humanitarian de-mining actions, support for IDPs, psychosocial support, conflict sensitivity journalism, monitoring the human rights situation, restoring governance in Donbas, police reform, protection of civilians and increasing youth resilience. The most affected population, including IDPs, has also been supported through humanitarian assistance.

In April 2017 the second tranche of EUR 600 million of the EU macro-financial assistance was disbursed. 2017 reform assistance, worth a total budget of € 200 million, focuses on: supporting key reforms and the implementation of the AA/DCFTA, public finance management reform, energy efficiency and economic and social recovery of conflict affected regions in eastern Ukraine under the control of the Government. In 2017, the EU confirmed its commitment to supporting Ukraine in its reform efforts through the approved multi-annual programme for 2018-2020, which recognises the stabilisation of the situation in the country

and enhances EU support to strengthen institutions and good governance, economic development, connectivity, people-to-people contacts and social inclusion.

In addition, Ukraine benefits from regional programmes and from other EU instruments such as the Instrument for Nuclear Safety Cooperation (INSC) or the Instrument for Democracy and Human Rights (EIDHR).

Concluding remarks

In 2017, Ukraine has continued to undertake political and economic reforms in numerous key sectors, in the context of its political association and economic integration with the EU. It has also continued to successfully address significant macroeconomic imbalances. Through policy dialogue and financial assistance the EU, in collaboration with international partners, has supported measures notably aiming at improved governance, the fight against corruption, judiciary reform, public administration reform and decentralisation. Continuous emphasis has been placed on support for the implementation of the Association Agreement.

Despite the continuing conflict in its East, Ukraine has demonstrated unprecedented levels of resilience and persistence in achieving societal change, asserting its European orientation. Expectations regarding the EU remain high. Civil society continues to play a pivotal role in the country's reform progress, counterbalancing strong vested interests still represented in Parliament and among institutions and authorities. With the entry into force of the AA/DCFTA and visa liberalisation, EU-Ukraine relations have never been so intense. In order to attract the investment necessary for sustainable economic development and for an improvement in standards of living across the country, including for the most vulnerable segments of the population, the authorities are being urged by civil society and international partners to redouble their efforts in the pursuit of meaningful reform, intensifying in particular the fight against corruption at all levels. The EU is consolidating its political, technical and financial support, with clear conditionality.