

## Thematic session “EU-Ukraine Agenda: Integration as a Driver for Transformation”

### Discussion paper

During the years since provisional application of the EU–Ukraine Association Agreement (AA), the **EU-Ukraine relations have entered into a stage of comprehensive and significantly deeper dialogue in all areas**. This is reflected in the diversity of the issues discussed at the high-level dialogues and in regular AA bilateral bodies meetings.

The AA, including the DCFTA, with Ukraine is the most ambitious agreement ever signed by the EU with its partner countries and the biggest international agreement signed by Ukraine. This ambition is also echoed in the AA Implementation Action Plan to be fulfilled by the end of 2024 (AAIAP), which was adopted by the Government of Ukraine in 2017 and revised in 2019. AAIAP includes almost 8,000 activities, united within more than 2,000 tasks in 24 areas and has been implemented by more than 70 state institutions. Ukraine has already shown significant progress in the AA implementation. In the Joint statement following the 22nd Summit, Ukraine and the EU welcomed the results, already achieved in the AA implementation and the success of the DCFTA, which has supported the increase of bilateral trade flows by about 65%.

Ukraine has significantly intensified its **sectoral integration into the EU Single Market** launching systemic reforms, including inter alia legal approximation in the areas of telecommunications, energy – gas and electricity, energy efficiency, public procurement, transport and infrastructure, sanitary and phytosanitary (SPS) along with significant progress in lifting technical barriers to trade. Further sectoral integration should continue to advance synchronization of Ukraine’s electricity system with ENTSO-E, signing of the Common Aviation Area Agreement with the EU, implementing freight/passenger transportation market by inland waters that will contribute to the overall Ukraine’s integration into EU logistical routes. Along with that, Ukraine has declared its early involvement in the development and implementation of policies within the EU Green Deal, resulting in launching a relevant structured and regular dialogue. Ongoing and envisaged high-level dialogues (human rights, industrial and regulatory, intellectual property, public administration reform, green deal, cybersecurity) continue to be an important tool to enhance existing and open new avenues for cooperation.

In support of Ukraine, the EU continues to provide financial assistance: the EU has mobilised together with European Financial Institutions (EIB and EBRD) over EUR 14.2 billion in loans including EUR 1.2 billion macro financial assistance in emergency response to COVID and EUR 2 billion in grants since 2014 (exceeding its EUR 11.1 billion pledge made in 2014).

The **Deep and Comprehensive Free Trade Area (DCFTA)** has allowed Ukraine more access to the European Single Market in selected sectors on DCFTA terms through the gradual abolition of customs tariffs and provision of duty-free access under quotas. Moreover DCFTA has provided Ukraine with the large-scale harmonization of Ukrainian laws, norms, and standards with those in the EU in key sectors, both directly and indirectly related to trade.

Growth in trade between the EU and Ukraine accelerated by the DCFTA has established the EU as Ukraine’s biggest trading partner accounting for more than 38 percent of its trade in 2020. Total EU-Ukraine trade reached €43.3 billion in 2019 and €39.6 billion in pandemic 2020. The

main Ukraine exports are raw materials (iron, steel, mining and agricultural products), chemical products and machinery.

Trade with the EU diversified the markets and expanded the range of products and exporters. Number of companies having the right to export their own products to the EU market has doubled from 184 in 2014 to 362 in 2020. Ukraine continued harmonizing its norms, and standards with those of the EU for food products and industrial goods. The prevailing share of already adopted binding technical regulations and standards for industrial products have been developed based on the EU acquis. This fact paves the way for opening negotiations on the Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) with the EU in the first three priority sectors - low-voltage electrical equipment, electromagnetic compatibility, and machinery. Food safety and sanitary and phytosanitary measures have been high on agenda with more than a half of EU acts in the field having been implemented into Ukrainian legislation. Among the recent achievements is the recognition by the EU of the equivalence of Ukraine's seed certification system, and, thus, Ukraine's right to export them to the EU.

After almost 20 years during which sales and purchases of farmland were banned Ukraine will open the market for agricultural land as of 1 July 2021.

In the customs area Ukraine has adopted laws and bylaws that introduce conventions on common transit procedure, national electronic transit system and simplification of formalities in trade. The first certificate of an authorized economic operator in Ukraine was received in March 2021. When successfully implemented, this will open the door to the EU Common Transit System, and will enable the customs authorities of Ukraine to exchange information with 35 countries in real-time.

In order to assess the unused potential of trade between the EU and Ukraine, Ukraine initiated a series of public consultations with business associations, representing about 3,000 businesses operating in Ukraine to identify sectoral segments of AA/DCFTA that could possibly be reviewed and updated to realize the potential of bilateral trade. The great space to increase Ukraine's export volumes as well as integration of Ukrainian producers into the European value chains was identified.

Ukraine and the EU agreed to enhance joint work on further trade facilitation. At the Association Council in February, the EU and Ukraine reconfirmed the start of consultations on the further review of trade liberalisation for goods under the DCFTA, in line with the Article 29 of the Association Agreement and to continuously update the relevant Annexes to the Agreement. Also the sides have started a comprehensive review of the achievement of the Agreement's objectives, as was agreed at the Ukraine-EU Summit in October, 2020. At this point, each side is undertaking an internal assessment that will be presented at the next Ukraine-EU Summit.

### **Judicial reform, rule of law and fight against corruption**

Ensuring justice, rule of law and fight against corruption remain to be the core stones of EU-Ukraine cooperation agenda and central to enhancing the relationship between Ukraine and the EU. Sustaining reforms in this area remains not only the key to public trust, but also a foundation for level playing field and subsequent improvement in business and investment climate, economic and social development.

Following the adoption of a comprehensive legislative framework, an all-embracing anti-corruption infrastructure has been established by 2020. In charge of developing and monitoring national anti-corruption policy is the rebooted National Agency on Prevention of Corruption

(NAPC) that has drafted the comprehensive Anti-corruption Strategy, improved significantly the quality of verification of declarations and launched an online registry for political party reports. The National Anti-Corruption Bureau (NABU) together with the Specialized Anti-Corruption Prosecutors Office (SAPO) investigates high-level corruption cases and brings them to the High Anti-Corruption Court (HACC) for adjudication. As of the end 2020 NABU and SAPO submitted 300 cases to the court resulting in 50 convictions, over 800 pre-trial investigations are ongoing. Asset registration and recovery is managed through the National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (ARMA).

Digital initiatives aimed at increasing transparency and accountability in the public sector have been introduced - an advanced electronic system of asset declarations for public officials (e-declaration system), an award-winning system for public procurement (ProZorro), e-services and open data (E-data).

The impact of implemented reforms and initiatives has been visible in the gradual improvement of anti-corruption perceptions in Ukraine – the score in Transparency International Corruption Perceptions Index (CPI) has increased from 25 to 33 points between 2013 and 2020. Nevertheless, the progress is perceived as too slow with Ukraine ranking 117<sup>th</sup> out of 180 countries.

The achievements remain fragile, as can be seen with the recent decisions of the Constitutional Court of Ukraine (CCU) on declaring unconstitutional certain provisions of the anti-corruption legislation regarding NACP powers, including on electronic asset declarations and status of NABU. While the Parliament managed to restore the NACP's powers, important anti-corruption legislative initiatives including the status of NABU, Anti-corruption Strategy as well as reform the CCU are pending consideration in the Parliament.

Furthermore, the need for an efficient and independent **judiciary** persists. According to surveys, the prevalence of corruption and distrust in the judiciary are the major obstacles to attracting foreign investment to Ukraine. Some initiatives have taken place in recent years, in particular introducing the new principles of selecting new judges, however, the process has been stalled due to unreformed judicial bodies. Hence the re-establishment of the High Qualification Commission of Judges and the integrity vetting of current and future High Council of Justice Members are vital to ensure the independence, integrity and accountability of the judiciary. These efforts are also crucial for both EU macro-financial assistance.

- *How the overall rapprochement of Ukraine with the EU is assessed: where Ukraine and the EU were successful in untapping the potential of the AA/DCFTA?*
- *What bottlenecks should be removed in order to untap further potential of the AA/DCFTA and to increase Ukraine's resilience?*
- *What are the priority spheres in Ukraine-EU dialogue? What should be done to increase visibility and tangibility of European integration for Ukrainian citizens?*
- *What could be done to enhance the role of the civil society and businesses to hold the country's leadership committed to AA/DCFTA obligations?*
- *What could be done at the political and institutional level to ensure the irreversibility of the progress achieved in fighting corruption and to counter attempts by vested political and economic interests to challenge the integrity and independence of the existing Anti-Corruption institutions?*

- *What other measures can be taken to ensure the inevitability of legal responsibility for corruption and related offences, including on legislative and institutional levels?*