



Towards a People's Partnership in the ENP

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This report is one of a series that resulted from an initiative entitled *Towards a Peoples Partnership in the ENP* which aimed to increase the awareness and capacity of civil society within the European Union and countries covered by the European Neighbourhood Policy (ENP) to engage effectively in the cooperation between the EU and its neighbouring countries. The countries involved in this project were Egypt, Georgia, Moldova, Morocco, the Occupied Palestinian Territories, and Ukraine. A report has been produced for each of the six countries on the results of the civil society workshop held in that country. In addition a synthesis report has also been produced. This initiative was developed and implemented through the collaboration of a number of organisations:

Eurostep - European Solidarity Towards Equal Participation of People, a network of autonomous European non-governmental development organisations which provided overall coordination of the joint activities.

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Women's Perspectives, a Ukrainian non-governmental organisation that supports women's initiatives, coordinated the activities in Ukraine.

AGROInform, the national network of non-governmental organisations in Moldova that supports private agricultural producers, coordinated activities in Moldova.

Green Alternative, a Georgian non-governmental organisation focusing on environmental and sustainable development, coordinated activities in Georgia.

Palestinian Non-governmental Organisations' Network, which seeks to develop and strengthen Palestinian civil society coordinated activities in the Occupied Palestinian Territories.

Development Support Centre for Consultancy and Training which provides support and assistance to Egyptian NGOs coordinated the activities in Egypt.

Forum des Alternatives Maroc, a Moroccan association that promotes economic, civil, political, social and cultural rights of groups and individuals coordinated the activities in Morocco.

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EXECUTIVE SUMMARY

This report contains a review of relations between Ukraine and the EU in the process of the implementation of the European Neighbourhood Policy (ENP)¹ from a civil society perspective.

Discussions of the European Neighborhood Policy and European Neighbourhood and Partnership Instrument (ENPI)² concerning relations between Ukraine and the EU were held between representatives of civil society organizations (CSO) during the international workshop “The European Neighbourhood Policy and European Neighbourhood and Partnership Instrument – impact on Ukraine’s sustainable development”, which was held in Kyiv in July 2008. Ukrainian CSOs were represented by members of non-governmental organizations from all parts of Ukraine engaged in various spheres of activities. The seminar was organized by Women’s Perspectives, a Ukrainian NGO, with the support of Eurostep (Belgium) and WOMNET (Germany). The report reflects the general opinion of the CSO representatives who took part in the seminar. A public presentation of the Report was made in Brussels on 12 November 2008.

The European Neighbourhood Policy contributes to the process of democratic transformation in Ukraine. With the implementation of the EU-Ukraine Action Plan (AP) over the past three years, cooperation with the EU has become more active and pragmatic in character. Despite the political crisis, when the parliament was not convened for many months, Ukraine managed to fulfil certain commitments specified in the Action Plan. Ukraine’s accession to the WTO was one of the most important achievements on the way to meeting EU standards of development over this period. The EU regards Ukraine as a model country for its relations with other neighbours in Eastern Europe. According to the EU, the implementation of the EU-Ukraine Action Plan has been the most successful of all the countries with whom Action Plans were signed under the ENP.

In September 2008, it was decided that a new agreement between EU and Ukraine will be developed in 2009 and will be named the Association Agreement. Negotiations on the content of this Agreement have been taking place since 2007. During the 12th EU-Ukraine summit the parties negotiated two core components, which are very important for Ukraine. The first is the creation of a Free Trade Area; the second is the conditions for introducing a visa-free regime between Ukraine and the EU. The Agreement is expected to be signed in the second half of 2009. It can be observed that the military conflict in Georgia caused the acceleration of relations between Ukraine and the EU. The EU views Ukraine and Georgia as the two ex-Soviet countries with which its relations are developing the most productively. For instance, as a result of the use of military force by Russia to resolve political conflicts, the EU assured Ukraine of its support for pursuing Ukraine’s rapid move towards integration with the EU.

¹ The European Neighbourhood Policy (ENP) was adopted by the European Union in 2004 to provide an orientation by the Union towards countries adjacent to its borders. More information on the ENP can be found at http://ec.europa.eu/world/enp/policy_en.htm

² The European Neighbourhood Partnership Instrument (ENPI) was adopted through the EU’s co-decision procedure in 2006. More information on the ENPI can be found at <http://www.enpi-programming.eu/>

Ukraine announced its NATO aspirations a long time ago and expects to be granted a NATO Membership Action Plan in 2009.

Despite the fact that the Country Strategy Paper (CSP) for Ukraine³ covering the period 2007-2013 has a number of deficiencies, defines obligations in vague terms and lacks clarity on expected results, it still fulfils its main function, which is to stimulate Ukraine towards harmonization with the EU. From the perspective of civil society the requirements and expected results could be formulated and outlined more clearly in documents defining policies in EU-Ukraine relations.

Ukraine has made numerous positive transformations on its European development course, but a lot has yet to be done. Ukraine's experience in the process of moving towards conforming to EU standards shows that Ukrainian government officials are responding positively to the goal of meeting Ukraine's obligations established as part of the EU's assistance. However, it is important that the requirements and expected results of the EU-Ukraine cooperation is formulated and outlined more clearly in documents defining this cooperation. It can be observed that Ukrainian government officials do take into account the opinions of influential members of the European Parliament and representatives of the European Commission. There is an understanding in Ukraine that it is necessary to make the necessary transformations to ensure a successful convergence with the EU. This has resulted, for instance, in the adoption of the law on equal rights and opportunities for women and men, the law on the prevention of domestic violence etc. Ukraine's commitment to bring its legislative base in line with European standards helped to speed up the adoption of these laws, even though they are far from perfect.

In their evaluation of the implementation of the EU-Ukraine Action Plan, experts from the Razumkov think tank⁴ noted that of the 227 planned governmental measures, a third were carried out in full and 45 percent in part; more than one in five measures (22 percent) were not carried out, while 36 percent of the measures were fulfilled later than planned. The experts emphasize that such poor performance resulted in the failure to automatically meet the priorities specified in the AP. As a consequence the EU-Ukraine AP was prolonged by one year from its original end date in February 2008.

The CSP contains a rather superficial analysis of the economic, social and political situation in Ukraine, and does not take into consideration the political instability in the country, lack of unity among political forces and the inefficient work of the Ukrainian parliament that has been a characteristic of the past two years.

While planned strategies for some sectors that are of great importance for Ukrainian society, such as healthcare, are missing from the CSP, it contains activities to be carried out in spheres that are barely being addressed by the Ukrainian government, such as environmental protection.

A large deficit of EU-Ukraine relations is that civil society is not involved in the discussions, review of, and consultations about, national and regional policies regarding the development of Ukraine and its closer ties with the EU. Civil society organizations are effectively excluded from the process of shaping Ukraine's policies in the sphere of European harmonization.

³ The EU's Country Strategy paper for Ukraine can be found at http://ec.europa.eu/world/enp/pdf/country/enpi_csp_ukraine_en.pdf

⁴ Journal "National Security and Defense", #8. "Ukraine-EU action plan: results and prospects"

INTRODUCTION

In March 2003 the European Council passed the Communiqué⁵, which was taken as a foundation for developing a new system of strategies regarding countries that became new neighbours of the enlarged European Union in 2004. The EU's enlargement meant changing the European Union's external borders, which, in turn, resulted in the development of special relations with its new neighbouring countries. The Council also passed a Communiqué on a new Neighbourhood and Partnership Instrument⁶. Negotiations between the EU and its partners from Eastern Europe and the Southern Mediterranean region were managed by the Commission. These helped demonstrate the EU's interest in implementing the ENP and the negotiations defined their views about priority goals that they sought to include in the AP.

The goal of the ENP is to make use, jointly with neighbouring countries, of the advantages following EU enlargement, in particular enhanced stability, security and welfare. The goal of developing the ENP was to prevent the emergence of new dividing lines between the enlarged EU and its neighbours and to provide an opportunity for them to participate in various EU areas of activity through wider cooperation in the spheres of politics, security, economics and culture.

Afterwards priority goals were defined jointly with governments in partner countries, with the aim being to bring these countries closer to the European Union. These priority goals have been included in the AP approved by the parties. These cover a few important spheres of concrete activities, such as political dialogue; establishing measures relating to trade aimed at preparing partner countries for increasing engagement with the EU's internal market; reforms in areas of justice and home affairs; and measures to develop the energy sector as well as transport, the information society, the environment, research and innovation, social policy and people-to-people contacts. The Action Plans are the main instruments for the implementation of the ENP at the national level. These are approved both by the European Union and by the national government of each country.

Partner countries that are covered by the ENP are countries that are EU's neighbours by land and by sea. They are Azerbaijan, Algeria, Belarus, Armenia, Georgia, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Moldova, occupied territories of Palestine, Syria, Tunisia, and Ukraine. Russia is a neighbour too, but its relations with the EU are based on a different agreement, identifying a Strategic Partnership.

Preferential relations with neighbouring countries are established on the basis of mutual adherence to common values, mainly relating to the rule of law, good governance, respect for human rights, including the rights of minorities, promoting good relations between neighbours, as well as adhering to the principles of a market economy and sustainable development. Action Plans are developed with a differentiated approach, depending on the existing level of relations with each country, its needs and capacity as well as mutual interests.

The aims of the cooperation between the EU and each partner country depend on the degree to which the country respects common values as well as its will and ability to fulfill the agreed priority goals.

The ENP points out the important role of civil society in the designing of policies. The European Commission's Communiqué points out the significant role played by civil

⁵ Communiqué titled "Wider Europe – Neighborhood: A New Framework for Relations with Our Eastern and Southern Neighbors"

⁶ See http://eu-directory.ea-ua.info/index.php?act=show&doc_id=3&id=90

society in developing contacts among people. It emphasizes that the involvement of civil society should not be limited only to the implementation of the ENP. Rather, civil society should fully participate in the reform process by way of participation in decisionmaking, in the implementation of decisions and in the monitoring of implementation. The European Commission's statement of December entitled "A Strong European Neighbourhood Policy"⁷ indicates that "...organizing a platform for representation of civil society in the ENP would be a welcome development. The European Commission will encourage the involvement of a wide range of interest groups in monitoring the implementation of ENP's Action Plan, promote dialogue in partner countries between the governments and civil society organizations in these countries, and try to involve more interest groups in the reform process". As is stated in the report "Civil Society in the Association Agreement between Ukraine and the EU", which was made by the Civil Society Expert Council of the Ukrainian side of the EU-Ukraine Cooperation Committee, "The EU-Ukraine Action Plan is not sufficiently developed in this respect, which is due to the fact that it was approved as long ago as early 2005, when the principle of recognizing the role of civil society had not been developed in the ENP. Therefore, while the EU-Ukraine Action Plan mentions the development of civil society a few times, particularly in the context of engaging it in the decision-making process and cross-border cooperation, it does not set more concrete requirements".

As of 1 January 2007 all EU assistance is provided within a new financial instrument for countries covered by the ENP i.e the European Neighbourhood and Partnership Instrument (ENPI), which have replaced the TACIS and MEDA Programmes⁸.

The assistance provided by the EU is coordinated with the financial assistance provided by EU member states and other donors. The policies and programmes for which funding is provided must conform to EU policies, signed bilateral agreements, multilateral agreements and international conventions to which they are signatories.

According to the national ENPI package, the assistance provided will focus on strategic priorities, in areas where it can be effectively used at the national level. Details of each programme for each country are given in respective Country Strategy Papers and National Indicative Programs.

EU support for regional cooperation programmes supplement assistance provided at the national level. These Regional Strategies focus on issues which have a regional character and aim to facilitate cooperation within the region that address mutual issues.

Civil society organizations, along with state authorities, scientific institutions and other stakeholders, can take part in national, regional, thematic and cross-border ENPI programmes.

Each year the Commission evaluates the progress made in implementing the measures and submits an annual report to the European Parliament and the Council on the implementation of EU assistance.

⁷ Communication from the Commission «A Strong European Neighbourhood Policy».- COM(2007) 774 final.- Brussels, 5 December 2007.- P. 11.

⁸ The TACIS and MEDA programmes were the EU's previous mechanisms for the countries now covered by the ENP.

UKRAINE IN THE ENP PROCESS

Relations between Ukraine and the EU are based on the Partnership and Cooperation Agreement (PCA)⁹ which entered into force on 1 March 1998, for a period of ten years. Provision was made for it to be prolonged automatically on an annual basis. The PCA provides the framework for political dialogue and sets mutual goals in a number of different areas of cooperation. Specifically this covers trade, investment and economic relations, sustainable development as well as economic, social, financial, civil, scientific, technical and cultural cooperation.

On the basis of the PCA, the EU-Ukraine Action Plan was adopted in February 2005 for a period of three years. The main goal of the AP was to create conditions for establishing a new level of relations between Ukraine and the EU after the PCA expired. The Action Plan is being implemented and monitored on the basis of annual implementation tools, which set out comprehensive yearly sets of priorities and timelines. These are based on priorities agreed jointly by the EU and Ukraine. The first progress report was adopted in December 2006. Overall evaluations were carried out in November 2005, March 2006 and May 2007. The Action Plan included 227 measures to be implemented by the Ukrainian government. The country made significant progress but not all of the objectives were achieved within the envisaged timeframe.

According to the Razumkov think tank, which evaluated the implementation of the Action Plan¹⁰, “our country virtually failed to meet the requirement regarding the stability of political institutions; at the same time we compensated for this failure at the expense of [achievements in] other areas, for instance, joining the WTO, signing agreements on visa facilitation and readmission with the EU, or owing to achievements in some spheres (i.e. implementation of the customs legislation, scientific exchanges etc.)”.

The Action Plan included commitments to address systemic issues covering political, administrative and judicial reform, fighting corruption, all of which have been difficult to tackle within the framework of an instrument that is effective for a limited period of time. The prolongation of the Action Plan for an additional year was to enable these issues to continue to be tackled. The cooperation continues and 23 items (measures) were included in the prolonged Action Plan for 2008.

On the basis of the significant progress achieved, new negotiations between the EU and Ukraine were launched in March 2007 so as to establish a New Enhanced Agreement (NEA). This aims to bring Ukraine much closer to the EU through implementation of further reforms in Ukraine, and to continue the process of gradually integrating Ukraine’s economy into the EU’s internal market. Wherever possible, this will go beyond the Partnership and Cooperation Agreement and the EU-Ukraine Action Plan. Both parties are actively engaged in designing new principles for enhancing their relations. After Ukraine completed the process of its accession to the WTO in February 2008, negotiations were launched, in the same month, on the creation of a deep and comprehensive Free Trade Area as a core element of the New Enhanced Agreement.

At the 12th EU-Ukraine summit in September 2008 the New Enhanced Agreement between Ukraine and the EU was given a new name, the Association Agreement. This

⁹ The text can be found at elukr.ec.europa.eu/en/Data/pca-eng.pdf

¹⁰ Journal “National Security and Defence”, #8. “Ukraine-EU action plan: results and prospects”

agreement, which is due to be signed by both parties in the second half of 2009, is expected to bring relations between the two parties to a higher level. During the summit the parties also agreed to replace the EU-Ukraine Action Plan with a new cooperation instrument. In addition the EU announced that it was ready to launch negotiations with Ukraine on establishing the conditions for a visa-free regime.

The three year implementation of the EU-Ukraine Action Plan saw an intensification of relations between Ukraine and the European Union. Government officials point at an increased number of working visits by EU experts to Ukraine, and a higher number of Ukrainian representatives in events organized by the European Union, such as international seminars, conferences, etc.

One of the most important results of the three-year implementation of the Action Plan was the completion of the process of Ukraine's accession to the WTO. With Ukraine's accession to the WTO, an opportunity was provided for Ukraine and the EU to launch official negotiations on the creation of a Free Trade Area.

The European Union has recognized the implementation of the Action Plan by Ukraine as the most successful among the countries with which Action Plans were signed in line with the European Neighbourhood Policy.

As far as relations with the European Union are concerned, the goal of the Ukrainian Government is to achieve EU membership, despite the fact that the EU has repeatedly declared that it has stopped extending EU borders. After the 12th EU-Ukraine summit experts said that the new Association Agreement between Ukraine and the European Union coincides with association agreements signed in the 1990s with the countries that later became EU members. The French President, Nicolas Sarkozy, said that "the new Association Agreement neither closes any roads [for Ukraine's membership of the EU] nor opens them".

The assessments of the implementation of the Action Plan set out in the EC Progress Report are very different from those of independent experts. The development of clearly defined and measurable indicators and transparent common assessment mechanisms are important for enabling impartial assessments of the Action Plan's implementation by all interested stakeholders.

ANALYSIS OF THE CSP

The Country Strategy Paper for Ukraine was signed by the Commission on 7 March 2007. It was established for the period of 2007-2013 and was drafted in close cooperation with Ukrainian authorities. The document states that, it "fully reflects national priorities". Assistance to Ukraine over that period will principally be provided under the new European Neighbourhood and Partnership Instrument established to promote the development of an area of prosperity and good neighbourliness between the European Union and the partner countries covered by the European Neighbourhood Policy.

The Strategy Paper contains a review of Ukraine's domestic and foreign policy, economic and social situation, and an evaluation of the assistance that has been and is still being provided to Ukraine.

EU assistance over the period covered by this strategy aims at supporting Ukraine's ambitious reform agenda on the basis of the policy objectives defined in the Partnership and Cooperation Agreement of April 1998 and the EU -Ukraine Action Plan of February 2005.

As Ukraine's biggest donor, the EU has the necessary tools to exert its influence on the process of reforms in Ukraine. Most donors recognize the EU's special role regarding Ukraine's European aspirations and therefore they more actively direct their efforts in line with the objectives outlined in the EU-Ukraine Action Plan.

EC assistance priorities have been identified primarily on the basis of the policy objectives defined in the jointly agreed EU-Ukraine Action Plan and for the purposes of this Strategy Paper are presented under the six chapter headings in the Action Plan. These are:

- *Political dialogue and reform*
- *Economic and social reform and development*
- *Trade, market and regulatory reform*
- *Cooperation in justice, freedom and security*
- *Transport, energy, information society and environment*
- *People-to-people contacts.*

The assistance provided in accordance with the ENPI's national package for Ukraine will focus on three priority spheres selected on the basis of mutual policy objectives for Ukraine and the EC's comparative advantage as a donor. They also draw on the lessons learnt from providing assistance in the past and seek to be complementary to the actions of other donors.

Priority Area 1: Support for Democratic Development and Good Governance

Sub-priority 1: Public administration reform and public finance management

Sub-priority 2: Rule of law and judicial reform

Sub-priority 3: Human rights, civil society development and local government

Sub-priority 4: Education, science and people-to-people contacts/exchanges

Priority Area 2: Support for Regulatory Reform and Administrative Capacity Building

Sub-priority 1: Promoting mutual trade, improving the investment climate and strengthening social reform

Sub-priority 2: Sector-specific regulatory aspects

Priority Area 3: Support for Infrastructure Development

Sub-priority 1: (non-nuclear) Energy

Sub-priority 2: Transport

Sub-priority 3: Environment

Sub-priority 4: Border management and migration including re-admission related issues

The National Indicative Program (NIP)¹¹ gives justification for each selected priority area and describes the expected long-term impact of the implementation of each sub-priority, its specific objectives, expected results and indicators for achievement. Civil society actors feel that all the objectives, indicators and results outlined in the NIP are vague and expressed in general terms. For instance, according to sub-priority 3 of the CSP priority on democratic development and good governance (priority area 1), the

¹¹ The National Indicative Programme sets out the specific actions that it is anticipated will be financed. The NIP can be found at http://ec.europa.eu/world/enp/pdf/country/enpi_nip_ukraine_en.pdf

expected long-term impact will be to contribute to strengthening democracy, the rule of law, human rights and fundamental freedoms. The specific objectives of this sub priority are:

- To ensure respect of human rights and fundamental freedoms, including in economic and social spheres, in line with international and European standards;
- To enhance involvement of citizens in decision-making processes and controls, including through civil society organisations;
- To secure freedom of expression and freedom of the media;
- To promote and enhance cooperation between governmental and non-governmental players, e.g. in the field of the environment, education, etc.;
- To strengthen local government structures in line with the standards contained in the European Charter on Local Self-Government;
- To foster active social dialogue between social partners as well as civil dialogue between private, public and civil society stakeholders.

While the specific goals can be considered to be adequate there are no clear benchmarks identified on which to evaluate their implementation or the achievements made. The specific goal “To foster active social dialogue...” might be achieved but would not necessarily lead to change in reality. “Private, public and civil society stakeholders” each understand social partnership in their own way, which means that they are likely to continue their activity or inactivity in the social sphere according to their own interpretation.

A sub-priority identifies the following expected results:

- Enhanced training and increased levels of awareness on human rights issues including core labour standards within law-enforcement organs;
- Increased public awareness of decision-making structures and procedures and stronger capacity on the part of civil society organisations;
- Improved and enforced legal and administrative framework to ensure respect of media freedom including journalists’ rights;
- High-quality support for implementation of national administrative reform plans to strengthen local government in line with European standards;
- Institutionalised dialogue between relevant players with a view to ensuring sustainable environmental, economic and social development.

Here it is also difficult to evaluate to what extent “the institutional dialogue between relevant players” has been established and to what extent it ensures “sustainable environmental, economic and social development”. There is a concern amongst civil society that the way in which the expected results are phrased does not adequately recognise the peculiarities of Ukrainian politics and the situation on the whole. Passing a law does not necessarily mean that it will be implemented.

Specific objectives are:

- Greater levels of respect of human rights and fundamental freedoms demonstrated by a reduction of donor reports and media coverage of cases of human rights violations;
- Stronger public participation processes demonstrated, e.g., by case studies on major infrastructure projects or through development of consumer structures;
- Fully sustained levels of freedom of expression and media freedom demonstrated by independent assessments, NGO reports etc.;

- Stronger local government structures demonstrated by better management of local authorities and greater ownership of local authorities by their citizens, measured from donor reports, surveys of civil society structures and citizens' panels;
- Stronger structures of social dialogue demonstrated by the existence of effective tripartite cooperation and collective bargaining.

As can be seen, most results can only be evaluated on the basis of reports by donors, research by civil society organizations and through public forums, which do not always cover the situation objectively or may cover it in part.

When analyzing the previous programme cycle, the EU stated that "the [previous] National Indicative Programs tended to be over-detailed, which restricted adaptability at project identification level in order to respond flexibly to evolving needs". Therefore, while designing the current programmes special attention was given to defining strategic priorities and objectives rather than concrete measures and implementation instruments. However, there is concern within civil society that the concrete steps that need to be taken and the specific results that the actions seek to achieve are not adequately identified. This makes the process of monitoring and analyzing the achievement of priorities approved by the parties very difficult.

The EU has identified the key priorities to be supported in the future – they are central to the Action Plan. These belong to the areas of justice, home affairs and regulatory reform. Unfortunately, the Strategy Paper does not include within its priorities reform of the healthcare system, which according to civil society, is an important task. However, its absence from the list of priorities for future programmes may well be due to the negative experience of funding in this area in the past. According to the EU, the lack of results of actions in the sphere of healthcare provided the main lessons learnt for the new programme cycle. The cause was identified as being, mainly due to "delays in the implementation of pilot projects and dubious political commitments in this sphere".

Last, but certainly not least, the Country Strategy Paper does not adequately include the issue of gender equality. This is in contrast to the Action Plan for 2005-2007 in which the gender element was part of a few priority areas.

DESCRIPTION OF THE MAIN CHALLENGES

According to the EC's 2008 Progress Report¹² Ukraine continues to make progress in most areas, but the pace of progress is not as fast as in previous years. In particular, this refers to the slower pace of economic and structural reforms, which was partly due to the political instability since 2006.

Political and economic review

The biggest problems preventing Ukraine from developing successfully are political conflicts and **corruption**. Despite the world financial crisis, which did not bypass Ukraine, and an inflation rate exceeding the forecast, the President of Ukraine dissolved the Verkhovna Rada¹³ in October and called early parliamentary elections. This required over € 50 million of funding that had not been budgeted. It is the third

¹² The text of the report can be found at <http://www.delukr.ec.europa.eu/page46794.html>

¹³ The National Parliament of Ukraine

consecutive year that Ukraine has had parliamentary elections, which does not contribute to the country's political and economic stability or development. On the contrary, it undermines the development process and pushes it a few steps back.

The process of adopting anti-corruption legislation was halted due to the political crisis following the April 2007 presidential decree on early elections and dissolution of the parliament. The anti-corruption plan was approved in August 2007 to address a number of recommendations provided by GRECO¹⁴. According to Transparency International, in 2007 the Ukrainian authorities failed to comply with all 24 recommendations of the Istanbul Action Plan for fighting corruption, only ten being met in part. Corruption is known to be a major factor that breeds poverty as it takes away resources meant to be allocated for education, healthcare and the development of infrastructure. Unless there is political will to overcome corruption and unless citizens are ensured access to information about budgets of all levels, revenue and expenditure, it will be impossible to fight against corruption.

In 2007 economic growth is estimated to have been stable at 7.3 %, supported by strong domestic demand. **Inflation** accelerated throughout 2007, reaching 16.61% (year-on-year) in September 2008. According to forecasts, by the end of 2008 inflation will have reached 20-24%. The National Bank of Ukraine declared a medium-term strategy of overcoming inflation and some flexibility on the exchange rate but no steps were taken in this respect in 2007.

International surveys on the difficulty of **doing business** did not show tangible improvements in 2007. According to these surveys, Ukraine is lagging considerably behind its neighbours in the region, in particular in the areas of paying taxes, issuing licenses and protecting investors. The Ukraine Ministry of Economy states that in 2007 the integral level of the unofficial economy stood at 26 percent. The projected volume of unofficial turnover amounts to € 25 billion, while the country's annual budget is € 34 billion.

There was little progress made in **the sphere of taxation** also. Inspections by tax authorities and, the intricate tax system represent a considerable barrier to business development. Solving this problem will require a comprehensive tax reform. Tax breaks were re-introduced in May 2007 to facilitate the import of automobile spare parts for their assembly in Ukraine. The Ukrainian parliament has not yet passed a new Tax Code which should replace and consolidate over 200 existing regulatory and legislative acts. The lack of efficient legislation to promote competition does not facilitate the improvement of the quality of goods and services in Ukraine.

Similar to previous years, in 2007 total Ukrainian **trade** with the EU increased, even though the problem of accessing European market still exists. EU imports from Ukraine grew by 25.2 %, while exports grew by 22.4 %. EU-Ukraine trade in services is still very limited in terms of value but increases steadily. A significant proportion of Ukrainian goods entering the EU market benefits from the EU GSP. Since Ukraine joined the WTO its imports of meat, wine and confectionery have increased. This creates certain problems for national manufacturers but on the whole, it stimulates the development of these markets and competition. While consumers benefit from the availability of a wide range of production, ensuring the steady development of Ukrainian manufacturers of these products takes time.

¹⁴ GRECO - Group of States Against Corruption

No progress has been achieved as regards the establishment of a modern legislative framework regulating **joint stock companies** as the new draft law has not yet been adopted. Consideration of this draft was affected by the early parliamentary elections of September 2007. Moreover, the draft law is not fully in line with EU legislation and best practices in the field of corporate governance. There has been no progress in the area of ensuring freedom of **capital movements**. Administrative and sometimes tax problems with the repatriation of foreign investments still exist.

Not much progress has been made with regard to enhancing the degree of transparency and independence of the competition agency, the Anti-Monopoly Committee of Ukraine. Ukraine agreed to a peer review of its competition policy by the Organization for Economic Cooperation and Development (OECD), which took place at the beginning of 2008. The draft report contained many recommendations for improvements in legislation and practice. In the area of state aid, no progress has been reported. The **public procurement** legislation is not yet in line with international and EU standards and does not provide for enough transparency and stability.

Social sphere

Four percent of the population still lives below the poverty line. While the overall **unemployment** rate has decreased to 6.8 %, Ukraine still faces major challenges preventing it from making substantial improvements in its labour market. In particular there is a shortage of qualified workers and large percentage of the population work in the informal economy. The adoption of a new modern labour code, widely discussed with the social partners, is still pending.

The **healthcare system** is in a deep crisis. Due to insufficient funding of this sector, medical establishments are not equipped with adequate equipment and means of emergency medical aid. Besides, corruption within this sector is believed to be present at many different levels. People living in rural and remote areas face great difficulties getting access to medical aid. The healthcare system has not been restructured since Soviet times.

Human rights

EU-Ukraine agreements on visa facilitation and **re-admission** entered into force on 1 January 2008 after the appropriate procedures had been completed by the EU and Ukraine in 2007. Both sides cooperated closely in areas related to improving infrastructure and in bringing procedural standards for the management of irregular migrants in line with EU standards.

Ukraine remains a major transit country for irregular **migrants** from Asia, Arab countries and Africa and the number of migrants is increasing. The latest trend has seen Ukraine become a destination country for labour migration from South-East Asia, as well as for professionals from the West. Economic instability, unemployment, a lack of social guarantees still encourages Ukrainians to seek jobs abroad. According to official statistics, 7 million Ukrainians are working abroad, with women accounting for 80 percent of them. What is of considerable concern is that the Ukrainian government does not seem to care about its citizens working abroad, who often have little access to social provisions, and are exploited through exhausting low-paid work, often resulting in poor physical and mental health. This also results in broken families and children growing up without adequate parental love and care. According to some experts, remittances from Ukrainians working abroad to maintain their families and in

savings transfer to Ukraine sums totalling approximately a quarter of the country's GDP.

According to the Security Service of Ukraine (USS), nearly 5 percent of the country's citizens working abroad become victims of **human trafficking**. Ukrainian women often become victims of sexual violence and slavery. According to numerous human rights organizations, Ukraine still belongs to the group of European countries where this problem is one of the most critical.

No changes have been observed in the **outdated penitentiary system**. Cases of torture and ill-treatment continue to be reported, in particular in pre-trial detention and prison facilities. Investigation into complaints of torture and ill-treatment and prosecution of the perpetrators remain insufficient.

The state programme on ensuring **gender equality** in Ukrainian society for the period until 2010, which was adopted in December 2006, led to the adoption of supporting decrees and regional programmes. However, the enforcement of the 2006 framework law on equal rights of women and men remains unsatisfactory. The Cabinet of Ministers has not yet elaborated the mechanism for enforcing this law. Women still suffer from lower pay and a lack of opportunities for professional advancement at work. The level of domestic violence is worrying too. Further awareness activities, an increase in shelter capacities as well as a better implementation of the related provisions of the criminal code at judicial level are therefore needed.

Ukraine has not published state-of-the **environment** reports since 2003. Of grave concern are old warehouses storing hazardous waste that Ukraine inherited from the Soviet Union. Currently Ukraine does not allocate funds for their utilization and storage. Existing environmental standards and rules do not ensure the reduction of harm to the environment from economic activity or a safe use of natural resources. Noncompliance of the technological processes and production itself with the environmental standards of the European Union is a barrier to the export of Ukrainian commodities to EU markets.

As can be seen, Ukraine has a number of problems that require immediate solutions. One of the main problems, as has already been mentioned, is transforming Ukrainian legislation to comply with EU standards. However, passing a law in itself does not guarantee compliance, which is one of the biggest problems in Ukraine. Politicians are so preoccupied with the struggle for power that the interests of citizens and the country as a whole become secondary. The political consciousness of the authorities and citizens is very low and this does not contribute to adherence to common European values. There are no mechanisms in place that would make authorities accountable for their decisions or inactivity. In this context, civil society organizations are one of the driving forces with great influence on the processes that will lead to delivering an effective compliance with European standards.

ANALYSIS OF THE SITUATION IN RELATION TO THE CSP

As has been stated earlier, the Country Strategy Paper for Ukraine defines the EU's general policy and goals of cooperation with the country for the period of 2007-2013. It reviews the country's political agendas, its political and economic situation and gives an overview of its cooperation with the EU.

The evaluation of the political situation in Ukraine is mostly objective but too superficial. The unstable alliances of political forces following the 2006 parliamentary elections often resulted in parliament working inefficiently and created tensions in the country. As far as Yushchenko's presidency is concerned, the expectations of Ukrainian voters were not realised. Since Ukraine has demonstrated its inability, due to petty conflicts among politicians, to make consolidated decisions in favour of the country's development, the EU ought to have made a more categorical statement about Ukrainian politicians and the political situation in the country.

According to the CSP's analysis of social developments, "access to healthcare still remains an unresolved problem, especially for the poorest segment of the population". However, the healthcare issue was not mentioned in the EU Response Strategy. The Action Plan and the National Indicative Program do not include this priority, even though it is one of the most important priorities for Ukrainian citizens. Medical services are free of charge in state-run medical establishments but medical personnel, whose salaries are very low, have not provided free services for a long time, so at every level patients have to pay into "the doctor's pocket" if they want to receive medical aid.

At the same time the CSP addresses areas that while not being on the Ukrainian government's priority list, still have a global impact on the country's future and on the future of at least its neighbours. These are issues of environmental protection. The CSP for Ukraine contains an analysis of the environmental situation and states that in the environmental sphere special attention should be given to facilitating the fulfilment of multilateral environmental agreements. Priorities in this sphere are the improvement of water quality, waste management, prevention of industrial risks and environmental protection.

"Policy Mix" considerations (Annex 5 of the CSP) point to Ukraine's commitment to fight against poverty, in line with the Millennium Development Goals (MDG)¹⁵, and EU support for this cause. Ukraine's sixth goal within the MDG is ensuring gender equality. But as the EU Gender Watch Report¹⁶ on Ukraine shows, the issue of gender equality is identified in the EU-Ukraine Action Plan as a cross-cutting issue, but the Strategy Paper does not include this gender element.

Therefore as far as gender equality and environmental protection are concerned, active public involvement is necessary to ensure that the allocation of financial resources reflects the country's needs in these spheres.

¹⁵ The Millennium Development Goals (MDGs) are derived from the outcome of the UN Millennium Summit that took place in 2000. At the Summit the international community, including the EU and Ukraine made commitments to reach a number of development targets. The MDGs are listed at <http://www.un.org/millenniumgoals/>

¹⁶ A Gender Analysis of the European Union Developmental Aid for Ukraine, O. Kisseliová. Gdansk, 2008.

According to the Country Strategy Paper for Ukraine, this document was developed in consultation with civil society organizations. It would be appropriate to identify in the CSP which priorities were included in, or excluded from, the Strategy Paper following recommendations from civil society organizations. So far the round table discussions initiated by the delegation of the European Commission in Ukraine have been rather declarative in character.

The indicative financial envelope for Ukraine under the National Indicative Programme for the period 2007-2010 is € 494 million. This allocation may be increased through allocations under the “Governance Facility” which will reward those ENP countries which show the best performance in relation to governance issues.

The indicative breakdown of resources is stated as follows:

Priority Area 1: Support for Democratic Development and Good Governance - € 148.2 million (30%)

Priority Area 2: Support for Regulatory Reform and Administrative Capacity Building - € 148.2 million (30%)

Priority Area 3: Support for Infrastructure Development - € 197.6 million (40%)

The National Indicative Programme provides for a possibility to increase funding under the “Governance Facility” instrument, which Ukraine used in 2007, when it received an additional € 22 million from the Governance Reform Facility Fund for high performance in the sphere of governance.

Since 2007 the EU has been providing assistance through a number of new instruments. Since the European Neighbourhood and Partnership Instrument – including not only its national but also international/regional, cross-border and thematic elements – is a completely new instrument for providing assistance to Ukraine, certain activities, in particular those related to conflict prevention and crisis management and resolution, may also be supported in the framework of the future Stability Instrument. Besides, activities in the sphere of nuclear safety are funded within the Nuclear Safety Instrument. Technical assistance is no longer a predominant mechanism of the Commission’s external assistance programs for Ukraine. The introduction of these new instruments of external assistance has considerably enhanced the flexibility for providing assistance.

As stated in the EU-Ukraine Action Plan, new cooperation tools, such as Twinning or TAIEX¹⁷, will play an important role in achieving the goals established in the Action Plan. These tools, together with other types of assistance (including infrastructure and equipment funding, pool funding and budgetary support, in particular in the context of sector-wide approaches), will be available and used whenever appropriate.

Ukrainian experts have maintained for a long time that it is impossible to fulfil the Action Plan in full due to its imperfections. They noted that “before the beginning of the EU-Ukraine Action Plan’s implementation, efficient feedback mechanisms at the “government – public” level should be devised (in particular, within the framework of the Public Expert Commission of the Ukrainian part of the EU-Ukraine Cooperation Committee). Civil society actors believe that it would also be appropriate to organize regular governmental and parliamentary hearings on the fulfilment of agreements between Ukraine and the EU.”

According to a survey conducted by the Institute for Strategic Research, the public shows a keen interest in relations between Ukraine and the EU, particularly in the

¹⁷ Technical Assistance Information Exchange Unit.

evaluation of the Action Plan. This evaluation, however, has not been acknowledged by the government and politicians have yet to make a response.

Government officials often attribute their failure to deliver on the commitments made by the Ukrainian government to a lack of a coordinating office within the framework of cooperation between Ukraine and the EU. Such an office would be responsible for ensuring concrete commitments were delivered. However, the survey conducted by the Razumkov think tank shows that this problem is placed only third, behind internal fighting between government structures (place first) and constraints of human resources (lack of government officials with the expertise allowing them to work on the adaptation of Ukrainian legislation to EU standards), which was placed second.

Ukraine delayed its accession to the WTO. According to the Strategy Paper for Ukraine, the country was supposed to join the WTO in 2006 or at the beginning of 2007.

Transforming Ukrainian legislation to meet EU requirements is a major problem for Ukraine's integration into the EU. As Kostiantyn Yeliseyev, Deputy Minister of Foreign Affairs of Ukraine, said, "the drafting or adoption of a legislative act does not mean that the commitments laid in it will be fully met because it is necessary to ensure the implementation of this legislation in practice."

For instance, the law on food safety and quality does not meet EU standards. Ukrainian food manufacturers must comply with it, although they export their production to EU markets. The EU applies the concept of food safety, whereas quality refers to the sphere of market regulation. In Ukraine, however, these two things are regarded as the same. Ukraine still uses an outdated decree on standardization.

As Y. Hariacha, a consultant with the National Institute for Strategic Research, explained, "the sponsor of a legislative act must be responsible for its compliance with EU standards. Therefore the contents of a legislative act are almost fully down to the integrity and professionalism of the one who drafts it".

In the CSP's analysis of Ukraine's economy about 20% of the population is living below the poverty level. The EC assistance priorities identified within the CSP under *Economic and social reforms and development* states that "assistance will be provided with the aim of strengthening social reform and encouraging approximation to EU social standards, thus contributing to poverty reduction and improving the employment situation in Ukraine".

The Ukrainian government's social policy is mostly oriented towards supporting the disabled and the poorest people. At the same time social benefits, subsidies and pensions are meagre and inadequate. Social policy does not lead to economic growth, creation of new jobs, and growth of solvent demand. An effective social policy needs to build skills and capacity within the country's citizens so as to help establish a favourable environment that promotes personal initiatives and that creates new employment opportunities.

MIDTERM REVIEW OF THE CSP

As identified earlier, the CSP covers the period 2007-2013 and pre-supposes midterm review of the strategy in 2009 so as to enable potential changes to be made to the strategy. For CSO it appears to be one more possibility to engage in the EU-Ukraine cooperation process and to provide their own assessment of the CSP, including any

recommendations for change the midterm review should result in a new indicative programme for 2011-2013.

For Ukraine the midterm review is important as it allows the changing context of the country to be reflected in the cooperation strategy for 2011-2013. This includes Ukraine's accession to the WTO, the long-term political and financial crises in the country and also the future of Ukraine in the Eastern Partnership.

The main issues that require attention during the midterm review of CSP are:

1. The principal development objectives are not met, as poverty is not being reduced. One of the main objectives of the ENP is development, to which the reduction of poverty is central. In spite of the Ukraine's progress, and with a positive level of economic growth, the gap between the poor and the rich is growing, and the level of corruption is not decreasing. In reality the CSP does not contain any focus that is specifically directed towards overcoming poverty.
2. The ENP does not reflect the interests of local actors. The ENP is a policy developed by the EU, but bilateral documents produced in the context of the ENP declare that they are developed with consideration of the interests of both parties. To be objective, the CSP primarily includes the development of those spheres that are the priority for the EU and as already identified earlier, does not cover spheres that are a priority for Ukraine, such as health care.
3. The agreement on the "common values" of the ENP which then seem absent in implementation. The ENP points out that privileged neighbourly relations will be established on the basis of the mutual commitment to the identified "European values", primarily relating to the rule of law, proper state government, respect for human rights, etc. However these values are neglected by Ukrainian officials and are not duly reflected in the EU – Ukraine development policy.
4. The impact of current liberalisation strategies underpinning approaches towards economic development. Economic growth is central to necessary for development to be achieved, but economic growth does not automatically lead to sustainable development. Cooperation within the ENP should not only lead to economic development, but also ensure citizens' welfare. Current economic development strategies do not always favour an inclusive development of the country
5. The Changed context, particularly with the establishment of the Eastern Partnership. Since May 2008 there have been negotiations on creating an "Eastern Partnership", which, apart from the 27 EU countries, will include Ukraine, Moldova, Georgia, Armenia and Azerbaijan. This Partnership aims to deepen cooperation between the EU and its Eastern neighbours, as well as the negotiation process towards a visa free regime, the introduction of free trade areas and concluding the strategic agreements.
6. The EU and government must facilitate dialogue with civil society. For the stable development of the civil society in Ukraine, the inclusion of civil society in the development of EU – Ukraine cooperation policies should be written into the strategic documents. While the EC delegation in Ukraine is already taking the first steps towards CSO, these need to go further for the civil society's interests to be reflected in the EU – Ukraine neighbourhood policy.

CONCRETE RECOMMENDATIONS ON THE ENP PROCESS

According to experts, the European Neighbourhood Policy lacks a strong political stimulus, such as the prospect of future EU membership for Ukraine or introduction of a visa-free regime for Ukrainian citizens. In this case, Ukraine would be expected to demonstrate enhanced activity and efficiency in meeting its commitments to the EU.

The EU-Ukraine Action Plan contains the usual list of reforms rather than the concrete commitments required. It also includes unrealistic goals to be achieved within the timeline indicated in the Action Plan, which heightens expectations that will not be met.

Recommendations:

To EU structures:

- To ensure that citizens of the partner countries covered by the European Neighbourhood Policy have access to information on the ENP and on relations between the EU and the partner country (including the availability of translation of important documents on the websites of EC delegations);
- To introduce a unified mechanism for monitoring and indicators for the fulfilment of expected results of the Action Plan, in order to enable expert organizations and civil society organizations to make a comprehensive evaluation of the achievements;
- To enhance the visibility and transparency of funds allocation according to priorities and sectors;
- To provide assistance to the country within the “budget support” framework on condition that a minimum of 10 percent of the project funds is allocated to civil society organizations;
- To engage civil society organizations at certain stages of the ENP (for instance, at the stage of designing basic documents on EU-Ukraine cooperation, Strategy Papers, indicative programs, annual action plans); in generating ideas for the future document, in sector consultations etc; in monitoring and analyzing previous programs, action plans;
- To establish clearer and measurable requirements in the EU’s cooperation with Ukraine is concerned;
- To ensure transparency and openness of EU funds and programmes;
- To incorporate cross-culture and gender aspects into EU programmes with a view to conforming with European values;
- To liberalize the visa regime for the entry of Ukraine citizens into the EU;
- To promote networking with international/European civil society organizations.

To the government of Ukraine:

- To impose sanctions on public officials for failing to meet their responsibilities in fulfilling the Action Plan;
- To train civil servants and representatives of civil society in understanding and using comprehensive mechanisms of implementing EU standards in various areas;

- To make a more rapid transformation of the Ukraine's legislation so as to meet EU standards;
- To give high priority to the fight against corruption.

CONCRETE POLICY RECOMMENDATIONS: PRIORITY AREAS AND IMPLEMENTATION

Self-government and democracy

1. The government of Ukraine and the EU should provide information to the public about the government's policies in addressing problems facing society, particularly as far as integration into the EU is concerned. To implement campaigns that inform citizens about EU requirements and activities, such as the increased use of budget support.
2. The government of Ukraine should accelerate the implementation of administrative and judicial reforms.
3. The government of Ukraine and the EU should establish mechanisms to ensure wider involvement of civil society and other stakeholders in the ENP at local and regional levels.
4. The government of Ukraine should devise and implement mechanisms for ensuring the accountability of ministers and government officials for failing to ensure that government commitments are met.

Gender aspects and human rights

1. The government of Ukraine and the EU should increase funding for such areas as the promotion of gender equality and adherence to human rights. An allocation of 0.2% of funds for the sphere of human rights is insufficient.
2. The government of Ukraine should develop a national gender strategy.
3. The government of Ukraine and the EU should include gender perspectives in all the programmes and areas supported by the EU.
4. The government of Ukraine should draw up gender-balanced budgets.
5. The government of Ukraine and the EU should integrate gender and social perspectives within EU assistance at all stages of the EU's strategy and its implementation.

Social reforms

1. The government of Ukraine should develop a systemic approach to implementing social reforms.
2. The government of Ukraine should reform the healthcare system in Ukraine, including introducing medical insurance.
3. The government of Ukraine should stimulate the development of social services.
4. The government of Ukraine should bring legislation on non-governmental organizations in line with European standards.
5. The government of Ukraine and the EU should engage civil society organizations in the decision-making process when EU assistance funds are to be distributed. CSOs should be consulted on priority areas of the social sector to ensure an adequate situation analysis.

6. The government of Ukraine and the EU should facilitate the monitoring of the results of social reform by independent experts and CSOs (since positive results shown in reports are not corroborated by systemic changes in the regions).
7. The government of Ukraine should provide access to information on possible social services and reforms at local and regional levels.
8. The government of Ukraine should enforce laws to ensure compliance with its obligations.

Environmental protection

1. The government of Ukraine and the EU should give priority to resolving environmental problems within the European Neighbourhood Policy/EU-Ukraine Action Plan and within funding programmes under the European Neighbourhood and Partnership Instrument.
2. The government of Ukraine and the EU should ensure that there are an adequate level of implementation of provisions relating to the issues of environmental protection and sustainable development, the EU-Ukraine Action Plan.
3. The government of Ukraine and the EU should engage citizens in the process of decision-making within the European Neighbourhood Policy and European Neighbourhood and Partnership Instrument (designing programs and projects, making comments on draft measures, draft reports, etc.)
4. The government of Ukraine and the EU should ensure independent monitoring of the implementation of the EU-Ukraine Action Plan (environmental issues, sustainable development, and civil society).
5. The government of Ukraine should adapt national environmental legislation to conform with the norms and standards of EU legislation.
6. The government of Ukraine should improve the level of application of Ukrainian environmental legislation.
7. The government of Ukraine should ensure compliance with multilateral and bilateral agreements in the sphere of environmental protection signed by Ukraine.
8. The government of Ukraine and the EU should raise awareness of environmental issues.
9. To European Neighbourhood Policy and new financial instruments under the European Neighbourhood and Partnership Instrument at local and regional levels should be available in Ukrainian.

CONCLUSIONS

Despite the fact that Ukraine has made certain positive steps towards establishing the conditions for integration with the EU, it continues to delay the process of meeting its obligations to the European Union. This is partly due to a lack in clarity in the formulation of the expected results and achievements in the EU-Ukraine programme documents.

In addition the prolonged political crisis in Ukraine and continued corruption prevent the EU harmonization agenda from being made a top priority for achieving prosperity in the country.

The slow adaptation of Ukrainian legislation, various legal and regulatory documents to meet EU requirements and standards, together with the low professional level of the civil servants responsible for this work also contribute to the slow pace of Ukraine's progress towards the EU harmonization.

The positive evaluation of the implementation of the EU-Ukraine Action Plan in the European Commission's report on the European Neighbourhood Policy for Ukraine is to a certain extent exaggerated and does not match the declared systemic changes.

Civil society is an integral part of the democratic development of European countries and Ukraine should learn to listen to the voice of its third sector too – for the sake of its democratic development, as well as its economic and political stability. Without fully engaging civil society at every stage in the planning and implementation of the European Neighbourhood Policy, the process of Ukraine's EU harmonization will be delayed and will not match the real needs of Ukrainian society.

CSOs should be actively involved in the evaluation of the CSP and participate in the midterm review of this document. To make this possible, the procedures and processes planning should be as transparent as possible and provide for the full involvement of CSOs at all stages of preparation and implementation.

ACRONYMS

AA	Association Agreement
AP	Action Plan
CSP	Country Strategy Paper
CSO	Civil Society Organisation
EC	European Commission
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Partnership Instrument
EU	European Union
FTA	Free Trade Agreement
GRECO	Group of States Against Corruption
MDGs	Millennium Development Goals
NATO	North Atlantic Treaty Organisation
NEA	New Enhanced Agreement
NGO	Non Governmental Organisation
NIP	National Indicative Programme
OECD	Organisation for Economic Cooperation and Development
PCA	Partnership and Cooperation Agreement
TAIEX	Technical Assistance and Information Exchange Instrument
WTO	World Trade Organization
UAH	Ukrainian currency
USS	Security Services of Ukraine

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