

## ANNEX 1

of the Commission Implementing Decision on the Special measure 2014 in favour of Ukraine

### Action Document for the State Building Contract for Ukraine

#### 1. IDENTIFICATION

Title/Number	State Building Contract for Ukraine CRIS number: ENI 2014/037-370		
Total cost	Total amount of EU budget contribution EUR <b>232 million</b> from the general budget of the European Union for 2014 (including EUR 40 million allocated through the multi-country umbrella programme).		
<b>Budget support</b>			
Aid method / Management mode and type of financing	Direct management State Building Contract		
Type of aid code	A01 – General Budget Support	Markers	BSAS
DAC-code	51010 – General Budget Support	Sector	Legal and judicial development  Financial policy and administrative management

#### 2. RATIONALE AND COUNTRY CONTEXT

##### 2.1. Summary of the action and its objectives

Ukraine is potentially at a turning point. In February 2014, President Viktor Yanukovich was impeached and a new government appointed. Policy under the Presidency of Yanukovich had been characterised by widespread corruption and a system of “vertical power” overriding the checks and balances foreseen in the constitution. Ukraine was on the brink of bankruptcy. The new authorities are seeking to bring fundamental change, working with the International Monetary Fund (IMF) to bring macroeconomic stability in the short-term and opening the way for longer-term reform in the context of political association and economic integration with the EU through the Association Agreement/Deep Comprehensive Free Trade Areas

(AA/DCFTA). The general objective of the proposed action is to provide direct financial support in the short-term and, over the coming year, support the process of transition with a particular focus on the fight against corruption, public administration reform, as well as constitutional, Judiciary and electoral law reform.

There will be a first, rapidly disbursed, **fixed tranche of EUR 250 million, of which 127 million funded with the present action<sup>1</sup>**, focussed on compliance with the general conditions of eligibility to EU budget support and a second, variable tranche, also funded by the present action, payment of which is linked to results by mid-2015 in the following areas: anticorruption, public administration, constitutional reform and electoral legislation. The main expected results in the area of anti-corruption, which will be linked to preparations for the reform of the justice sector, are enforcement of provisions against illicit enrichment, effective verification of declarations of interest, access to information of public interest, and transparency and competitiveness of public procurement. In the area of public administration reform the main expected result is a career-based civil service reflected in separation between political and administration positions, separation between public and private sphere, merit-based, non-political recruitment and promotion of senior and middle level civil servants, sufficient employment stability and protection against discretionary dismissals. In the area of constitutional and Judiciary reform as well as harmonisation of electoral legislation, the main result is expected to be an inclusive and participatory process lining towards reform in line with international recommendations.

## 2.2. Country context

Ukraine became independent in 1991 and has since been beset by weak and corrupt governance dominated by oligarchs, lack of commitment to reform, weak rule of law and in recent years an increasing centralisation of executive, legislative and judicial power under former President Viktor Yanukovich. At the eve of the Vilnius Summit, Cabinet of Ministers of Ukraine took a decision to suspend the preparation for the signing of the Association Agreement with its Deep and Comprehensive Free Trade Area (AA/DCFTA) in order notably to restore economic ties with the Russian Federation. This led to demonstrations in Kyiv that were brutally suppressed. The suppression unleashed a strong wave of protest against the Government and the President Yanukovich exemplified by the Maidan. President Yanukovich, together with the leaders of the opposition, agreed to an EU-brokered compromise to end the protest including constitutional reform and early Presidential elections but fled Kyiv on 22 February, failing to fulfil its duties.

As a consequence, the Verkhovna Rada elected a new speaker who automatically became Acting President. The Verkhovna Rada decided to revert to the 2004 Constitution on which basis a new government, selected from the previous Opposition, was approved on 27 February with a constitutional majority.

The new government has promised in its programme to take a radical approach as regards the corruption and conflicts of interest that had typified the previous policy of the former President and Governments and to seek early signature of the AA/DCFTA. Civil Society as

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<sup>1</sup> The State Building Contract for Ukraine is made of the present action, amounting to EUR 232 million from the general budget of 2014, and of an amount of EUR 123 million from the ENPI Annual Action Programme 2013 in favour of Ukraine, subject to the modification of Commission Implementing Decision C(2013)8059 of 20 November 2013 adopting the ENPI Annual Action Programme 2013 in favour of Ukraine.

represented in the structures of the Maidan remains sceptical that the new government represents an effective change in the system (rather than a change in those profiting from the system as had been the case following the Orange Revolution of 2004).

The new government programme and the approach based on transparency and oversight by representatives of civil society represent a systemic regime change for Ukraine which will provide a much stronger basis for reform as well as political association and economic integration with the EU than has existed heretofore and stands to provide a reliable basis for the implementation of the AA/DCFTA. The purpose of the State Building Contract (SBC) is to support the transition process to an improved functioning of the governmental institutions.

### **2.2.1. *Main challenges towards poverty reduction/inclusive and sustainable growth***

In 1989 GNP per head was at about the same level as in Poland. Twenty-five years later it is only one-third. Ukraine's economy collapsed in the 1990s and since then recovery has been weak and unsustainable, based on low value-added, high energy consumption industries exploited by rent-seeking oligarchs. The business climate has worsened yet further in recent years with the advent of corporate raiding by those close to the centre of power, as can be seen for example from World Bank rankings. In recent years the economy has again stagnated and the current account and government deficits have grown to unsustainable levels. Inequality remains significant. The AA/DCFTA provides a legal framework for reform and, if implemented effectively, will allow for improvement of quality of life in Ukraine, as well as economic development. This will be however a major challenge for both the public administration and the private sector. The scourge of conflict of interest and corruption must be overcome to allow a level playing field and effective competition, as well as effective implementation of the AA/DCFTA.

In the short-term Ukraine is in negotiation with the IMF for a Standby Agreement (SBA) to provide the necessary liquidity for Ukraine to meet its international obligations. This SBA is expected to be further supported by macroeconomic lending from the EU and other donors, including possibly loan guarantees from the United States.

### **2.2.2. *Fundamental values***

Under the Presidency of Viktor Yanukovich, despite its membership of the Council of Europe and OSCE and presenting the forms of democracy, Ukraine had significant issues relating to the fundamental values of democracy, human rights and the rule of law as described in the European Neighbourhood Policy Annual Progress Reports.

The EU Foreign Affairs Council in December 2012 had set out a series of prior actions to be taken by Ukraine in the domains of selective justice, elections and the rule of law as preconditions for the signature of the AA/DCFTA at the Vilnius summit. In the course of 2013 this led to some improvements, primarily of a cosmetic nature. The rapid worsening of the situation after the Vilnius summit, leading eventually to the assassination by snipers of about 100 people in Kyiv in February 2014, exemplified the previous policies' lack of respect for human rights and the rule of law.

### **2.2.3. *Fragility and transition processes***

Ukraine is in a process of difficult political and economic transition and instability is exacerbated by ongoing security concerns. There is a risk of generalised instability, possibly even a risk of collapse in governance in the event of non-intervention by the international

community. This SBC is one of the elements of rapidly evolving international support which will help cover the short-term urgent needs while putting the country into a stronger position to address its longer-term reform as well as political association and economic integration with the EU in the context of expected signature and implementation of the AA/DCFTA.

The SBC will contribute to progressive stabilization, to countering further deterioration in market confidence, to progressively building up a policy dialogue with government, parliament and civil society (as part of the comprehensive EU/Ukraine dialogue foreseen in Title VII of the AA/DCFTA<sup>2</sup>) and to provide support in some specific but essential areas for a gradual improvement in governance.

### 2.3. Eligibility for budget support

Despite the difficulties it faces, Ukraine continues to meet the eligibility criteria for budget support.

#### 2.3.1. Public policy

Ukraine is in a process of transition. There is a broad acceptance that it is possible for Ukraine to fundamentally change its governance away from corrupt systems, typified by endemic conflicts of interest and vertical power, to systems based on deep democracy, transparency and the rule of law. This will be a medium- to long-term process. In the shorter term covered by the SBC, the emphasis must be on the first steps and also on the process by which the authorities are held to public account to the population and where civil society will play a key role.

A new government, presidential elections, constitutional change, ongoing lustration procedures and possibly advanced parliamentary elections in the course of 2014 would give the opportunity for widespread change and could reinforce the legitimacy of democratic institutions. Civil society will follow and oversee these changes.

The amendments to the current constitution in line with Venice Commission (VC) recommendations, in particular the part concerning the powers of President and parliament, should be adopted at first reading before the presidential elections for voters to have clarity on which powers the new President will be invested with. The final voting on the constitutional amendments would be in the autumn session of the parliament (constitutional changes require two votes in two different sessions), after the opinion of the Venice Commission. Constitutional reform is also crucial for the Judiciary reform.

Since the recently (re)introduced 2004 Constitution has granted increased powers to the parliament, elected under the 1996 Constitution, it would be desirable to hold pre-term parliamentary elections after the improvement of the current parliamentary election law which was amended with a non-transparent process. The improvement of the parliamentary election law should be carried out in parallel with a harmonisation process of all election legislations.

In parallel, work should proceed on key longer-term policy issues, especially as regards the rule of law. EU assistance is heavily implicated in this through the justice sector "super twinning", a EUR 8.6 million contract funded under the Annual Action Programme 2010 to provide embedded advisers in the Ministry of the Interior (police), Prosecutor-General, Ministry of Justice and courts systems with rapid access to high-level short-term expertise. The aim is to produce a coherent and complete set of strategies for the constitutionally independent players in the justice sector.

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<sup>2</sup> Until entry into force of the AA/DCFTA the dialogue will take place within the dialogue structures foreseen in the pre-existing Partnership and Cooperation Agreement (PCA).

In the short-term, anti-corruption actions can be based on transparency as regards interests and effective implementation of existing legislations, including in the judicial system. Nevertheless, there is a need for a strategy to put in place effective culture, systems, institutions, and legislations to bear down on corruption in the longer term including in the judicial system. A key element will be a consolidated career-based and politically neutral civil service, which will require a revised Civil Service Law and simplifications to administrative procedures to reduce the scope for corruption and reforms in the justice sector.

### **2.3.2. *Macroeconomic policy***

The Ukrainian economy has been experiencing a recession since the third quarter of 2012 as a result of very large twin deficits and in the absence of much needed reforms. The only quarter of positive growth was in the fourth quarter of 2013, and was quickly reversed in the first two months of 2014, as a result of the deterioration of the political and security situation. The Ukrainian government has lost access to international financial markets during 2013 as confidence dropped significantly. At present there is an estimated USD 15.5 billion in Foreign Exchange reserves (around 2 months of import cover). The first substantial debt redemptions fall due already in May and June. The new government, approved by the Parliament on 27 February 2014, invited the IMF fact finding mission to assess the latest economic developments and external financing needs.

Discussions on the priority policy measures to be adopted by the authorities and on a possible financing arrangement with the IMF are going forward.

On 27 March 2014, the IMF staff reached an agreement with Ukraine on an economic reform program to be supported by a two-year Stand-By Arrangement (SBA) with the IMF. Assistance from the IMF will range between US\$14-18 billion, with the precise amount to be determined once all bilateral and multilateral support is accounted for. The agreement is subject to approval by IMF Management and the Executive Board expected in April, following the authorities' adoption of a strong and comprehensive package of prior actions aiming to stabilize the economy and create conditions for sustained growth.

### **2.3.3. *Public financial management***

Ukraine developed a Public Financial Management (PFM) Strategy and an Action Plan in 2013 that was considered sufficiently good by the European Commission, although the Action Plan needs to be more monitorable. In that respect an OECD SIGMA mission is expected to take place in the second half of April 2014 and meet with the Ministry of Finance, other Ukrainian institutions and representatives of the EU Delegation to Ukraine to brainstorm a more specific monitoring mechanism.

The Ministry of Finance has thus agreed to work together with Sigma to improve the Action Plan with a view in particular to identifying specific, measurable and timed actions which could serve as indicators for effective implementation of the strategy. Moreover, the Ministry of Finance committed to prepare quarterly reports on the strategy implementation with recommendations and the first such report, covering the last quarter, was produced in February 2014.

In the short-term, action in two priority areas has been identified – public procurement and budget transparency. As regards public procurement a broadly acceptable law was approved in 2010 which was subsequently subject to a series of 20 amendments aimed at withdrawing certain procurement action from the scope of competition to the advantage of private interests. The Accounting Chamber of Ukraine produced a critical report noting the reduction of the proportion of procurement subject to competitive procedures. The new government has expressed its intention to move rapidly on revising the public procurement law as part of the broader fight against corruption. Key factor in verifying the progress is aligning the Law "On Public Procurement" with European principles of competitive procurement.

#### **2.3.4. *Budget transparency and oversight of the budget***

The legislation as regards budget transparency is acceptable, requiring publication of the draft budget proposed by the government to the Rada on 15 September of the year *n-1*, allowing three months for civil society to analyse and comment on it prior to its adoption by the Rada. Moreover the ACU is required to provide a report on the draft budget. This procedure was not respected in 2012 and 2013 with the result that the 2013-2014 budgets were voted by the Rada without any real public debate as regards budget priorities.

The 2014 budget will be subject to amendment following the IMF mission and it is expected that there will be drastic cuts in budgetary expenditure. This amendment will be introduced with little active involvement of civil society as the Law "On the State Budget 2014" was already approved by the Rada in January 2014 and consultations with civil society are not legally required to introduce amendments in this law.

While the content and the preparation of the 2015 budget law remains, for internal and external reasons, uncertain, it is important to support an environment more conducive to increased transparency and accountability in the management of public finances by, inter alia, ensuring the participation of civil society and international stakeholders.

#### **2.4. *Lessons learnt***

The EU has committed funds for sectoral budget support since 2007 totalling over EUR 600 million. The experience has been mixed and the use of the sectoral budget support instrument in Ukraine is currently subject to an independent evaluation (delayed because of the ongoing civil disturbances). The most significant difficulty was experienced with the EURm70 million sector budget support programme for public administration reform of 2011. It was not possible to negotiate a Financing Agreement with the Ukrainian authorities and the programme was cancelled. The principal reasons for the impossibility of negotiating a Financing Agreement was the absence of a Public Administration Reform (PAR) strategy compounded by inadequate legislation that the government was not ready to amend. The inadequacies related primarily to the lack of provision for a sustainable career-based civil service and to excessive possibilities of politicisation and direct hierarchical control over civil servants that facilitated manipulation and corruption.

Other sector budget programmes have proven difficult to implement effectively with levels of achievement for variable tranches averaging around 60%. This reflects a lack of ownership of sectoral reform and a consequent lack of commitment to sectoral reform strategies. Technical assistance has in the past been similarly frustrated by the lack of commitment to reform.

Civil society, including think tanks, has a good potential for monitoring reform and engaging in dialogue with the government. However there has been in the past reluctance from the authorities to engage substantively with civil society as regards sectoral reform. The EU will increase support to civil society both politically and financially to encourage appropriate engagement which is very much in line with the approach taken by some Maidan-linked civil society organisations.

## **2.5. Complementary actions**

Ukraine has been the recipient of widespread donor support for over twenty years. Assistance has been focussed in the first instance on support to reform processes. Over 2011-2013 the EU has focussed its strategy on the Association Agenda with a particular focus on good governance and the rule of law, facilitation of the entry into force of the AA/DCFTA and sustainable development. Other aid donors (including the international financial institutions) have aligned themselves with the overarching objectives of reform as well as political association and economic integration with the EU.

There are substantial technical assistance funds available under previous Annual Action Programmes to support Ukraine in the short-, medium- and long-term in Ukraine. As Ukraine proceeds to the detailed implementation of the AA/DCFTA, the twinning instrument may be expected to assume increasing importance. The EU has substantial funds committed for this instrument. Detailed priorities for use of the twinning instrument are agreed locally between the EU Delegation to Ukraine and the Ukrainian authorities. Moreover, SIGMA expertise continues to provide capacity development support in the area of Public Finance Management.

## **2.6. Risk management framework**

Ukraine faces a difficult security situation carrying risks to the integrity of the country and its system of government. Ukraine is also threatened by economic collapse should it fail to reach agreement with the IMF. Paradoxically these threats carry with them a strengthened desire to make a successful transition to a country characterised by deep democracy, human rights and the rule of law – as well as increased awareness and willingness on the part of international donors to assist this process.

Ukraine failed to entrench these characteristics in the first twenty years of its independent existence and allowed vested interests to take effective control of state institutions culminating in the "vertical power" during the Presidency of Viktor Yanukovich. The main risk to this SBC is that the vested interests will quickly accommodate to and corrupt the new Government – perhaps under the influence of the neighbouring power. That is why quick and substantial help is needed. The risk of delay is that democratic elements will be isolated and non-democratic elements will be allowed to re-emerge, as happened after the Orange Revolution of 2004.

To sum up the main risk is that the system will not change. The main mitigating measure is to help Ukraine to change it through a broad range of EU support, as indicated in the "European

agenda" document given by Commissioner Füle to Prime Minister Yatsenyuk on 26 March. The SBC is a key element of the "European agenda".

### 3. DETAILED DESCRIPTION OF THE BUDGET SUPPORT CONTRACT

#### 3.1. Objectives

The general objective is to support the government of Ukraine in addressing short-term economic problems and preparing for in-depth reform in the context of political association and economic integration with the EU on the basis of the AA/DCFTA through support to improved governance, fight against corruption, Judiciary reform and public administration reform.

Specific objectives include:

- Increase the financial capacity of the government to reinforce macroeconomic stability and strengthen the capacity to reform.
- Improve governance and in particular public service delivery, public finance management (PFM), public procurement, budget transparency, judiciary reform and strengthen the fight against corruption.
- Support Ukraine in the process of transition and harmonious national development.
- Increase government responsiveness to citizens through reinforced civil society dialogue and oversight.

#### 3.2. Expected results

The State Building Contract to reinforce the transition process in Ukraine is focussed on supporting the country in implementing the government programme through improved governance including concrete steps in the fight against corruption and preparation for public administration reform including civil service reform, improved PFM and reform of the justice sector.

The main expected results include:

1. Serious **progresses in the fight against corruption** by setting up and ensuring effective functioning of a specialised anti-corruption investigative agency for high-level corruption cases in line with international standards, aligning criminal corruption offences with international standards, and the introduction and enforcement of provisions on illicit enrichment. A particular attention should be paid to Justice System in that regard.
2. **Strengthened integrity and accountability** in the public sector through improved and effectively enforced procedures for **declaration and verification of incomes, assets and**



**expenses** and for the prevention of conflict of interests of different categories of public officials.

3. **Transparency and competitiveness** in public procurement via significant reduction of the list of exceptions from the sphere of public procurement, ensuring competitive procurement and access to information related to public procurement, in particular by public enterprises.

4. Seriously **improved access to information** of public interest through aligning with the Access to Public Information Law of other legislative acts, setting up an independent oversight authority and ensuring unrestricted access to public registers of companies

5. Increased transparency and accountability in **public finance management** (PFM) via the **regular reporting by the Government** on the implementation of the PFM plan, together with clear explanations to media and citizens, and evidence of regular consultations with civil society and international stakeholders.

6. Comprehensive **civil service reform** focusing on European principles of public administration such as separation of a civil service and political positions and a merit-based approach to civil service recruitment and promotion is adopted and effectively implemented. Administrative legal framework and public service delivery are improved as part of efforts to increase effectiveness of public administration.

7. Completion of the **constitutional reform** through an inclusive and participatory process, including active consultations with civil society and in line with the Venice Commission recommendations. .

8. Harmonisation of **electoral legislation** and political parties financing (including on state financing) completed through an inclusive and participatory process in line with the OSCE/ODIHR and GRECO recommendations.

In consideration of the rapidly evolving situation in Ukraine, in case of unforeseen developments main expected results related to the second budget support disbursement could be revised based on a common agreement.

### **3.3. Rationale for the amounts allocated for budget support**

The amount allocated in total<sup>3</sup> to this budget support operation (the State Building Contract) is equivalent to approximately 0.2% of annual GDP. With payments spread over two budget years this implies an annual contribution to the Ukrainian state budget equivalent to about 0.3% of overall government budget revenues in the years 2014 and 2015. The amount is relatively limited as a percentage reflecting Ukraine's large population and middle-income

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<sup>3</sup> Including an amount of EUR 123 million from the ENPI Annual Action Programme 2013 in favour of Ukraine, as explained in footnote 1.

status. However, this State Building Contract will contribute to trigger important reforms to support the transition period in Ukraine and will set a policy dialogue framework with the government, as well as it will contribute to restore macroeconomic stability and the prospects for long term growth.

It forms a significant part of overall EU financial support to Ukraine estimated at EUR 11 billion in the coming years (European Commission MEMO/14/59 of 5 March 2014) and will accompany the IMF SBA, increased World Bank lending and substantial support from other donors.

The participation of the EU in the overall international donor support is of particular political and symbolic importance for Ukraine given the renewed and reinforced support for political association and economic integration with the EU of the country as evidenced by the signature of the political part of the AA/DCFTA.

### **3.4. Main activities**

The main activities to implement the state building contract budget support are:

- Policy dialogue with government and civil society *inter alia* in the structures foreseen in title VII of the AA/DCFTA (PCA structures prior to entry in force of the AA/DCFTA);
- Financial transfer with a fixed tranche and a variable tranche<sup>4</sup>;
- Performance assessment on the basis of reports by government ministries, the Venice Commission, OECD SIGMA, OSCE/ODIHR and oversight reports from civil society;
- Capacity development in particular as regards the capacity of civil society to effect oversight over the activities of judicial, legislative and executive bodies.

#### **3.4.1. Budget Support**

Regular dialogue will take place between the EU services and the Government of Ukraine in the context of the Joint Budget Support Monitoring Group for budget support as well as in meetings with civil society participation. Payment will be split into a first fixed tranche to be transferred to the Government of Ukraine upon signature of the Financing Agreement, subject to compliance with the general conditions, and a second variable tranche that will be released after the agreed conditions are met<sup>5</sup>. The EU Delegation to Ukraine, possibly with the support of independent experts, will verify the extent to which conditions are met for the disbursement of the second tranche.

#### **3.4.2. Complementary support**

Complementary support is not foreseen as part of the State Building Contract as such. However, actions financed by other ENPI and ENI programmes will directly support the objectives of the SBC (see section 2.1. above).

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<sup>4</sup> The present action funds only a share (EUR 127 million) of the first, fixed tranche and the totality of the second, variable tranche (up to EUR 105 million).

<sup>5</sup> See footnote 4.

### **3.5. Donor coordination**

In 2010 the government set up a top-down, comprehensive system of donor coordination. This system has not worked effectively both because of the one-size-fits-all approach and because of the significant resources that would have been needed to make it work.

In 2014 and following the appointment of a new Government, the EU is working together with the government and the international community to put in place a **donors' coordination mechanism**. This government-led system of donor cooperation will be based around four indicative areas of work: response to very short-term humanitarian needs; support to implementation of conditionality linked to macroeconomic support programmes; support for the implementation of the AA/DCFTA; and support for deep democracy, human rights and the rule of law.

This State Building Contract is part of the wider European Union effort to provide Ukraine with support for the short term priorities identified with the Ukrainian government in the main areas of political processes, economic support, trade, mobility, home affairs, energy, enterprise, and transport.

### **3.6. Stakeholders**

The main stakeholders are the Ukrainian authorities and citizens working through civil society. Given the systemic nature of the transition to be supported through the SBC, the Council of Ministers and the Prime Minister will play the key role. The Ministry of Economy is responsible for aid coordination within the government and the Ministry of Finance for public finance management, public transparency and (together with the Ministry of Economy) macroeconomic stability. The Ministry of Justice has a particular role in coordinating constitutional and electoral legislation, the fight against corruption and public administration reform, in particular in the context of justice sector reform. Other public bodies that are stakeholders include the Rada, the court system, the Central Election Commission and the Accounting Chamber of Ukraine.

There is a wide range of stakeholders in civil society, including think tanks, carrying out advocacy roles who will play an active role in the policy dialogue.

### **3.7. Conclusion on the balance between risks and expected benefits/results**

Ukraine faces a difficult security situation carrying risks to the integrity of the country and its system of government. Paradoxically these threats carry with them a strengthened desire to make a successful transition to a country characterised by deep democracy, human rights and the rule of law – as well as increased awareness and willingness on the part of international donors to assist this process.

Ukraine has the potential, both human and natural resources, to be a wealthy and democratic neighbour, if it puts its governance in order. This State Building Contract is an essential part of the EU response to the fast moving events in Ukraine and to the urgent need to mobilise considerable assistance to contribute to the stabilisation and development of the country. It will also nurture the transition process towards democratic governance. The AA/DCFTA

provides a legal framework that could encourage such an evolution if Ukraine is able to transform itself.

#### 4. IMPLEMENTATION ISSUES

##### 4.1. Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012<sup>6</sup>.

##### 4.2. Indicative operational implementation period

The indicative operational implementation period of this action, during which the activities described in sections 3.4. will be carried out, is **18 months**, subject to modifications to be agreed by the responsible authorising officer in the relevant agreements.

##### 4.3. Criteria and indicative schedule of disbursement of budget support

The general conditions for disbursement of all tranches are as follows: Satisfactory progress in the implementation of the transition to a society characterised by deep democracy, human rights and the rule of law and continued credibility and relevance thereof; implementation of a credible stability-oriented macroeconomic policy; satisfactory progress in the implementation of PFM reform, in particular the adoption by the Verhovna Rada of amendments to the Law on Public Procurement in line with good international practices; satisfactory progress with regard to the public availability of timely, comprehensive and sound budgetary information;

The indicative schedule of disbursements is summarised in the table below (all figures in EUR millions) based on fiscal year of the partner country.

Country fiscal year	Year 1 (2014)				Year 2 (2015)				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Base tranche		127							127
Variable tranche							105		105
<b>Total</b>		<b>127</b>					<b>105</b>		<b>232</b>

<sup>6</sup> A single financing agreement will be concluded for the total amount of the State Building Contract. As the latter includes funds originating from the general budget of 2013, the financing agreement shall be concluded by 31 December 2014 at the latest, in application of the N+1 rule referred to in Article 189(2) of Regulation (EU, Euratom) No 966/2012.

#### 4.4. Details on complementary support

No complementary support is foreseen.

#### 4.5. Indicative budget

Module	Amount in EUR million	Third party contribution (indicative, where known)
Budget support (State Building Contract) <sup>7</sup>	232	N.A.
- <i>Ukraine annual allocation 2014</i>	192	
- <i>Umbrella programme 2014</i>	40	
<b>Total</b>	<b>232</b>	<b>N.A.</b>

#### 4.6. Performance monitoring

Policy dialogue covering *inter alia* macroeconomic stability and reform process will be documented through the procedures that will be put in place for the Association Council/committee/sub-committees/Parliamentary Association Committee/Civil Society Platform once the AA/DCFTA enters into force. Prior to that the analogous procedure for the Partnership and Cooperation Agreement will be in force.

As regards public procurement and budget transparency these will be subject to monitoring in the broader context of the quarterly reporting arrangements in place for monitoring the public finance management strategy and action plan.

Constitutional and Judiciary reform as well as the harmonisation of election legislation will be subject to review and ad hoc reporting by the Venice Commission, OECD SIGMA and OSCE/EDIHR. Civil society will monitor, verify and report on compliance with regard to public administration reform and the fight against corruption, constitutional and Judiciary reform, and harmonisation of election legislation.

#### 4.7. Evaluation and audit

An end of programme review will be conducted in order to assess progress against expected objectives and draw lessons for the design of any future budget support programmes.

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The total amount of the State Building Contract for Ukraine is EUR 355 million and includes an amount of EUR 123 million from the Annual Action Programme 2013 in favour of Ukraine, subject to the modification of Commission Implementing Decision C(2013)8059 of 20 November 2013 adopting the ENPI Annual Action Programme 2013 in favour of Ukraine.

#### **4.8. Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

## ANNEX 2

of the Commission Implementing Decision on the Special measure 2014 in favour of Ukraine

### Action Document for Ukraine Civil Society Support Programme

#### 1. IDENTIFICATION

Title/Number	Ukraine Civil Society Support Programme CRIS number: ENI/2014/033-833		
Total cost	Total estimated cost: EUR 10.8 million Total amount of EU budget contribution: EUR 10 million Estimated co-financing by grant beneficiaries: EUR 0.8 million		
Aid method / Management mode and type of financing	Project Approach Direct management - grants (calls for proposals) and procurement of services		
DAC-code	15150	Sector	Democratic participation and civil society

#### 2. RATIONALE AND CONTEXT

##### 2.1. Summary of the action and its objectives

This action document sets out the implementation modalities of the Ukraine 2014 Civil Society Support Programme. First and foremost this support programme accompanies and complements the support provided to Ukraine under the State Building Contract. The present programme works also in complementarity and synergy with other EU instruments and programmes such as the EIDHR, the Civil Society Organisations and Local Authorities (CSO-LA) thematic programme and the ongoing Neighbourhood Civil Society Facility projects implemented in Ukraine. The overall objective of the Ukraine 2014 Civil Society Support Programme is to enhance the role of civil society promoting and monitoring democratic reforms and inclusive socio-economic development in Ukraine.

The action will be implemented through calls for proposals for funding actions implemented by civil society organisations (CSOs) and through technical assistance providing capacity building and support to structured dialogue.

##### 2.2. Context

###### 2.2.1. *Country context: political context in Ukraine*

This Programme is prepared in response to challenges and opportunities emerging as a result of several months of protests in Ukraine since November 2013 and the need to support a greater role of the civil society in the transition to a new regime.

At the eve of the Vilnius Summit, Cabinet of Ministers of Ukraine took a decision to suspend the preparation for the signing of the Association Agreement with its Deep and Comprehensive Free Trade Area (AA/DCFTA) in order notably to restore economic ties with the Russian Federation. This led to demonstrations in Kyiv which were brutally suppressed.

The suppression led to a strong wave of anti-government protests in Kyiv and other Ukrainian cities exemplified by the Maidan. Citizen mobilisation, new media and civil society have played a significant role in this process. President Yanukovich, together with the leaders of the opposition, agreed to an EU-brokered compromise to end the protests but fled Kyiv on 22 February 2014.

As a consequence, the Verkhovna Rada elected a new speaker who automatically became Acting President. The Verkhovna Rada decided to revert to the 2004 Constitution on which basis a new government, selected from the previous Opposition, was approved on 27 February with a constitutional majority.

The new government has indicated in its programme a clear intention to take a radical approach towards the overall implementation of reforms and specifically towards the fight against corruption. It has opened a window of opportunity giving civil society higher chances than ever before to be involved in the democratic transition process. It has also presented organised civil society and media with a challenge to uphold the expectations of exercising an efficient oversight of public authorities.

Despite the favourable context of the transitional period, it is important to keep in mind the pre-Maidan condition of the civil society, as many characteristics can still be considered valid.

### **2.2.2. Sector context: policies and challenges**

#### EU's engagement with civil society in partner countries

The new approach towards the EU neighbouring countries outlined in the Joint Communication "A new response to a changing Neighbourhood" of May 2011<sup>8</sup>, acknowledged civil society's role to contribute to policy-making and hold governments to account. The Communication reiterated the EU commitment to support a greater role for civil society through helping civil society organisations develop their advocacy capacity, the ability to monitor reform and their involvement in implementing and monitoring EU programmes. The Communication also stressed on the more intensive engagement with all stakeholders involved in the implementation of the Eastern Partnership, including the Civil Society Forum and its national platforms.

In September 2012 the Commission adopted the Communication on "The Roots of Democracy and Sustainable Development: Europe's Engagement with Civil Society in External Relations"<sup>9</sup>. Endorsed by the Council in October 2012, the Communication set out a new policy for a deepened and more strategic EU engagement with civil society, with a focus on CSOs in partner countries and the different roles they play. These roles range from promoting inclusive policy-making, accountability and transparency to their initiatives in service delivery and in inclusive and sustainable growth. The Communication responds to recent developments at the global level such as greater recognition of CSOs as key development actors and deterioration of the space for CSOs to operate.

The Communication put forward three priorities for EU support:

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<sup>8</sup> COM(2011)303 of 25 May 2011.

<sup>9</sup> COM(2012)492 of 12 September 2012.



1. To enhance efforts to promote an enabling environment for CSOs in partner countries;
2. To promote a meaningful and structured participation of CSOs in domestic policies of partner countries, in the EU programming cycle and in international processes;
3. To increase the capacity of CSOs to perform their roles as independent development actors more effectively.

The Communication has sent a strong message about the importance the EU attaches to a dynamic, pluralistic and competent civil society and to its constructive relations with the authorities.

### Civil society context in Ukraine

Civil society in Ukraine has been quite active in a number of sectors and its impact and role in the Ukrainian society have grown over the past 20 years.

The overall environment for civil society in Ukraine can be characterised as favourable, with a satisfactory legal framework and vibrant and diverse civil society actors, especially in such sectors as elections, human rights protection and environment. At the same time, civil society organisations have been developing against the backdrop of ever increasing pressure, especially during the years of Yanukovich's presidency.

Civil society participation in policy and decision-making processes has been rather poor. With a handful of exceptions, such as the preparation of the laws on civil society organisations, access to public information or freedom of peaceful assembly, CSO opinions on key reform processes have not been taken into account by the authorities. The best consultation process CSOs could hope for was the online publication of draft laws prepared in closed political circles. Any feedback sent by CSO experts to such public consultations has rarely been taken into account.

Civil society representatives were invited to participate in consultative/advisory committees established under national and local government bodies, the President, and the Cabinet of Ministers. However, these councils have remained largely decorative with very few independent experts included. At the same time, these structures have been useful in terms of getting out the message and allowing for direct interaction with governmental officials. Negative examples, however, could be found with the Ministry of Finance public council where none of the relevant CSOs were present and the Ministry of Foreign Affairs where religious groups were present but not a single relevant think tank. The councils tended to work better at local level but they could not be expected to function as a genuine dialogue instrument, as they were often a "tick-the-box" mechanism built around "Governmental Non Governmental Organisations" (GoNGOs).

Since the departure of Yanukovich, the validity of structures of consultation and interaction between the authorities and civil society has been discussed with and among civil society. While the majority of experts agree that the previous structures were mostly inadequate and ineffective, it is generally perceived it was not due to the structures themselves, but due to such factors as: lack of will for a meaningful consultation, focus on process and procedures (and not on content), inadequacy of the process itself (i.e. consultation on a draft law, and no consultation during the preparation of the draft law), sometimes lack of expertise or constructive input from civil society.

While the formal organisational aspects of CSOs have improved, the following factors still hamper the functioning of the civil society in Ukraine:

- Despite the recent events, freedom of assembly is still undermined by the lack of modern legislation and previous restrictive practices could easily reappear: frequent court bans on peaceful demonstrations regularly limit this right, especially for oppositional or non-mainstream and minority groups. There is a clear need for adoption of a law on freedom of assembly in line with the internationally accepted standards which then should be properly implemented by the Ukrainian authorities.
- The period of the previous 3 years witnessed a striking increase of administrative and judicial pressure on CSO activities. Up to now, the law-enforcement agencies have failed to properly investigate cases of physical aggression against journalists and civic activists. It remains to be seen how attacks on journalists and protesters of the last 3 months will be investigated. The lack of proper investigation will send the wrong signal to the society and law enforcement bodies, with a culture of impunity prevailing.
- As to media, most national television channels belong to owners close to the previous ruling party; it is not clear yet how the media landscape will look like in few months. The control of the television landscape is expected to even further increase with the planned switch-over to digital television. The media outlets working in the regions of Ukraine are also under heavy pressure from the local authorities. A majority of Ukrainians get their news from television where little, if any, space exists for alternative points of view, open discussions, and expert opinions. Journalists continue to face the threat of violence in the course of their work. Numerous journalists were directly attacked during the protests. There is a lack of pluralism in the media sphere. However, it should be noted that several print media and the "blogosphere" provide a significant and largely unrestricted platform for expression of independent and oppositional views. Social and internet-based media, such as internet-TV, have played a crucial role during the Maidan revolution, and will continue to have an important role in the oversight and monitoring of public policies.

### **2.3. Lessons learnt**

While it is yet early to draw up an exhaustive list of lessons learnt about the "post-Maidan" civil society, a preliminary assessment can include the following points:

- Civil society organisations have played a key role in the process. The Civic Sector of Maidan, composed of various and diverse CSOs active during the protests, has been instrumental in keeping the revolutionary process as less political as possible, and especially in terms of catalysing the energies and potential violence into non-violent protest. Considering the risks of polarisation of the entire society, especially with the on-going external pressure and a forceful acquisition of part of Ukrainian territory, it is important to underline and capitalise on the potential stabilising role of civil society.
- The protests also increased a networking and communication of CSOs not only across the sectors, but also between regions. The importance of working in coalitions, defining each other's role and tasks, is well reflected in the recent initiative of the Civic Sector of Maidan known as the "reanimation package of reforms". It can be expected that the interest of CSOs to continue working in coalitions in order to have a greater impact at policy level will remain.
- The need for outreach to civic activism and communicating the actions to the population. Most people in the protests were not affiliated with any political party or CSO. As a result, the Maidan events were not communicated adequately to the whole population of Ukraine. Eastern Ukrainians, many of them Russian speaking, may have seen the news of the last 3

months through the spectrum of state-sponsored Russian media. The disconnect between CSOs and the society at large can clearly be detrimental to the effectiveness of the CSOs work, in particular in the policy and reform areas.

The feedback from meetings with civil society and evaluations of on-going programmes point to the following aspects that have to be considered in civil society strengthening programme:

- Dialogue with authorities: there should not be a one-size-fits-all approach, as the various contexts, levels and sectors require different responses. For example, there is often a gap between national and local level advocacy, due to different agendas and contexts for advocacy. The national level advocacy relies on expertise and access to decision-making processes, while the local advocacy relies on physical mobilisation and pre-existing credibility in community. While they are seen as not performing at national level, public councils at municipal level have potential, but only if CSOs push to participate and act constructively. Since citizen participation mechanisms in smaller communities are not yet institutionalised, and this could be one of the mechanisms to be promoted. Before the Maidan events, CSOs had underlined the increasing risks of seeing fake consultation processes to be developed further, through public councils. The new, less restrictive legal framework had been reportedly used to create more easily GoNGOs which were then occupying all seats at public councils. The development of a parallel, pro-governmental “civil society” was seen as a real risk, especially in a context of very limited access to media for non-pro-governmental or non-mainstream voices. This risk will have to be closely monitored in the new context.
- CSO legitimacy and capacity: formal CSO groups often struggle to connect to informal activism in communities. There is poor feedback mechanism to ensure that the needs of beneficiaries are reflected in planning CSO activities. The focus on CSO legitimacy and connection to citizens have been present in few donors' supported initiatives, and establishing independent boards as a pathway to legitimacy and transparency was perceived as a best practice. A strong emphasis on communication and outreach to citizens is seen as an important cross-cutting priority of civil society programmes. Outside the narrow circle of few think tanks, a large number of CSOs do not fully understand the policymaking process, a key aspect of advocacy and policy change. The outreach to grass root level should be further strengthened. Increased use of re-granting has to be accompanied by capacity development in areas such as organisational management, financial control and evidence-based advocacy.

#### **2.4. Complementary actions**

The EU Delegation to Ukraine ensures the complementarity and synergies with other EU instruments. In the implementation of this Programme complementarity will be ensured with ongoing projects funded under EIDHR, CSO-LA and other thematic programmes, regarding the objectives and types of projects, both at country and regional level. While the EIDHR will clearly focus on the promotion and protection of human rights and democracy, the CSO-LA programme will focus on areas not covered under this programme, such as social sectors, multi-actor partnerships and cooperation with local authorities.

The present programme also complements and accompanies the State Building Contract by supporting civil society's role in monitoring the implementation of the related specific reforms (public administration reform, public finance management, fight against corruption, elections, Judiciary and Constitutional reforms).

Furthermore, the present programme builds on the on-going work of the EU-funded regional project "Strengthening non-State actors' Capacities to Promote Reform and increase Public Accountability", whose overall purpose is to strengthen the overall capacities of civil society

organisations, facilitate their involvement in policy dialogue and increase their contribution to the political and institutional framework of the Eastern Partnership countries.<sup>10</sup>

Many donors support programmes for civil society are in the process of being revised to the new situation. The following initiatives can be underlined as they are the most complementary, in terms of scale and modalities, with the present programme:

- US support is channelled either through USAID or US Embassy grant programmes (Democracy support and media development funds). In view of the recent events, USAID has increased its on-going support to civil society and media. The bulk of the assistance related to civil society is implemented through two large scale programmes with re-granting and mentoring capacity: UNITER programme (Ukraine National Initiatives to Enhance Reforms) with USD 14 million until 2016, and U-Media with USD 16 million over 8 years. Both programmes are implemented through international non-governmental organisations.
- The regional strategy of the Government of Sweden covering Eastern Europe countries is being finalised, one of 3 areas being "strengthened democracy, greater respect for human rights and more developed rule of law" (the two others being economic integration and environment). The indicative annual budget for Ukraine is likely to be around EUR 25 million. This programme aims at a more diverse and pluralistic civil society including a broader spectrum of political actors with strong popular support, and improved conditions for democratic accountability and participation in political processes, including the promotion of free elections. The Swedish Development assistance strategy is complementary to and closely coordinated with the EU programmes in Ukraine. The overall objectives are similar, but the Sweden mechanism of organisational funding allows focusing on emerging or already important civil society organisations. Benefiting from the organisational assessment, core funding and capacity to strategise better, these organisations will be prepared to implement successfully EU-funded projects.

## 2.5. Donor coordination

A number of support programmes for civil society are already implemented by Member States and other donors in Ukraine. Further development of the specific activities under this Programme at implementation state will have to take into account specific donor initiatives designed for Ukraine. The EU Delegation will keep other donors informed of progress under this Programme in the framework of regular meetings of the donor coordination group, and particularly with the preparation of the roadmap for engagement civil society.

Donor coordination on civil society (including media, and elections when appropriate) is very active in Ukraine, with EU Delegation regularly convening and chairing the meetings. The present situation leads many donors to re-evaluate their strategy, and the information above will be monitored and updated accordingly.

## 3. DETAILED DESCRIPTION

### 3.1. Objectives

The **overall objective** of this Programme is to enhance civil society role in promoting democratic reforms and inclusive socio-economic development in Ukraine.

The **specific objectives** are:

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<sup>10</sup> More information can be found in website of the Civil Society Dialogue for Progress project ([www.csdialogue.eu](http://www.csdialogue.eu)).

1. To strengthen the capacity and participation of CSOs in policy dialogue, monitoring and oversight, and concrete actions, to advance the implementation of the national reform agenda;
2. To contribute to foster a conducive environment for civil society, including legislative, institutional and social dimensions<sup>11</sup>.

### **3.2. Expected results and main activities**

#### Expected results related to global objective:

0.1 – Civil society plays a stronger role in the promotion and monitoring of the implementation of the reform agenda in Ukraine.

0.2 – Civil society is engaged in developing and piloting initiatives to ensure an inclusive socio-economic development in Ukraine.

#### Expected results related to specific objective 1:

1.1 – Increased technical capacity of CSO to perform their role: institutional and management capacity; internal governance; sustainability; research, analytical, policy formulation, advocacy and outreach skills; understanding of policy and budget and processes including EU policy processes where relevant.

1.2 – Through policy dialogue, civil society has a greater impact on the quality of public policy and reforms.

1.3 – Oversight and monitoring by civil society provide for an effective mechanism to ensure that announced reforms are implemented and sustained.

1.4 – Through pilot projects, especially at local level, CSOs increase their contribution to socio-economic development and an inclusive society and are involved in the implementation of reforms.

#### Expected results related to specific objective 2:

2.1 – Legal environment is more conducive for civil society development (i.e. legislative framework is improved and implemented, tax code favouring donations, improved mechanism for CSOs to provide social services).

2.2 – Result-oriented interaction and dialogue between public authorities and civil society organisations:

- CSOs are better coordinated and act through platforms and coalitions;
- CSOs and authorities have functioning and efficient mechanisms for dialogue and oversight, both formal and informal, at national and local level;
- CSOs and civil servants have improved their skills in working together, seeing it as a useful partnership for their work;

2.3 – Increased trust of society at large towards CSOs, increased representativeness and legitimacy of CSOs.

#### Sectors:

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<sup>11</sup> This can include: legislative environment, institutional environment, interaction and dialogue between public authorities and civil society organisations (formal and informal structures of dialogue with authorities), representativeness and legitimacy of CSOs. See Commission Communication COM(2012)492.

Several factors justify the necessity to keep a broad spectrum of sectors to be addressed under this Programme:

- Geopolitical developments: in light of the very high instability and lack of a clear outlook regarding the future developments in Ukraine, CSOs can play an increasing stabilising role;
- Internal political developments: whatever the political affiliation of the President elected in May 2014, governance, accountability and the rule of law will be key sectors to be monitored by civil society, in line with the State Building Contract that accompanies this Programme;
- Political relations with the EU: in case the Association Agreement will be implemented in full in the country, support to inclusive socio-economic development and social sectors would be a crucial component of the present Programme to ensure positive impact of the Agreement, thus mitigating the negative short-term impact that the Agreement may have on the socio-economic stability of the country.

#### Activities:

The present programme builds on the on-going work of EU funded initiatives, such as the regional project to support civil society in Eastern Neighbourhood, and the ongoing and upcoming CSO projects supported under the Neighbourhood Civil Society Facility. Activities below are indicative and will be adapted to the situation and to the results of the on-going mapping and needs assessment of civil society.

To ensure the complementarity of actors and their roles, most activities related to capacity building and dialogue mechanisms will be implemented both by CSOs themselves through two successive calls for proposals (with a one-year interval) and by a technical assistance project. The technical assistance project will ensure synergies and complementarity between projects and initiatives, guaranteeing a demand driven and locally owned process.

*Related to expected result 1.1 (and impacting on other results, such as 2.2 and 2.3):*

- A comprehensive set of capacity development programmes, with trainings, exchanges with EU-based CSOs, mentoring and learning by doing<sup>12</sup>;
- Training of trainers for civil society and civil servants (particularly on interaction and dialogue mechanisms);
- Support to locally owned capacity building mechanism such as the NGO Capacity Development Marketplace<sup>13</sup>;
- Potential themes for capacity development, to be adapted after a needs assessment exercise:
- Policy and budget process, research, advocacy and lobbying;
- Management and internal governance; project identification, formulation and financial management; fundraising;
- Outreach, communication and new media;
- Gender mainstreaming, EU policies.

*Related to expected results 1.2, 1.3 and 1.4 (effective monitoring and impact of civil society projects):*

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<sup>12</sup> in line with guidance materials on capacity development of CSOs to be developed by the European Commission

<sup>13</sup> See [www.ngomarket.org.ua](http://www.ngomarket.org.ua). A presentation of the state of play is available at <http://prezi.com/eh3xbpuudj3t/capacity-development-marketplace-today/>.

- CSO projects in specific sectors target policy dialogue and interaction with authorities with concrete goals (example: local development plans under the foreseen decentralisation);
- Initiation and support to multi-stakeholders' dialogue;

*Related to expected result 2.1:*

- Screening of the state of play in terms of legal and procedural environment;
- CSO projects, such as advocacy by CSO coalitions;
- Specific expertise and good practice from the EU including accession countries or the Neighbourhood region on support to a conducive environment.

*Related to expected result 2.2:*

- Identification of proper consultation mechanisms at local and national level, through participatory process and consultation and exposure to best practices;
- Use of these identified mechanisms as appropriate;
- Support to the structuring of CSO and to the emergence of new civil society initiatives.

*Related to expected result 2.3:*

- All above mentioned activities will contribute to expected result 2.3 .

### **3.3. Risks and assumptions**

A non-exhaustive list of key assumptions includes the following:

- Political stability;
- Sovereignty, independence and territorial integrity;
- Commitment of authorities at all levels to reform and cooperation with civil society;
- Adequate operating environment for CSOs;
- Access to information and basic government accountability mechanism in place to enable CSO to play a monitoring and oversight role;
- Proper internal governance for CSOs in place;
- CSO to be interested in policy dialogue;
- Basic capacity of CSOs to engage with government and donors.

Risks and mitigating measures:

Mitigating measures will be developed as risks arise:

- In case of a deterioration of the situation (territorial, political, economic, social), the objectives of the calls for proposals would focus on the stabilising role of CSOs at national and especially at local level;
- An insufficient commitment of the stakeholders will be addressed by political dialogue between the EU Delegation and the main stakeholders, and increased explanation of the win-win situation of an efficient dialogue;

- The potential lack of interest of CSOs in advocacy and monitoring can be mitigated by a stronger focus on those groups who can have a role and clearer explanation that advocacy is about partnership and dialogue and not confrontation;
- GoNGOs and “grant-eaters” could undermine the legitimacy and efficiency of civil society work; the assessment of CSOs participating in the Programme will be carefully done, ensuring that involvement of such structures will be avoided.

### **3.4. Cross-cutting issues**

This Programme is actor-oriented and not limited to one sector. The inclusive approach used to define civil society organisations will ensure a representation of multiple sectors of activities.

The objective of the programme is to strengthen civil society's involvement in the decision-making process and improve interaction between government and civil society. This participatory approach to decision-making is a core element of democratic governance. The Programme will further contribute to the government's accountability and the implementation of reforms. It will also contribute to greater representativeness and transparency of the civil society organisations themselves.

The implementation of specific actions under this programme will build upon the existing thematic, regional and bilateral programmes already implemented with civil society organisations active in the fields of gender equality, rights of minorities and youth development.

### **3.5. Stakeholders**

This Programme primarily supports civil society organisations in the wide definition of the term as provided for in Article 1.2 of the Communication on "The Roots of Democracy and Sustainable Development: Europe's Engagement with Civil Society in External Relations"<sup>14</sup>. Civil society organisations include all non-state, not-for-profit structures<sup>15</sup>, non-partisan and non-violent, through which citizens organise to pursue shared objectives and ideas, whether political, cultural, social or economic. Operating from the local to the national, regional and international levels, they comprise urban and rural, formal and informal organisations.

Other key stakeholders involved are national and local government authorities which should be associated to the activities under this Programme, to the extent possible. This Programme will continue to foster the ability and willingness of the authorities to engage with civil society organisations in policy dialogues and the implementation of reforms. In addition, media outlets are instrumental in supporting civil society in performing its oversight role and communicating about its activities, experiences and best practices.

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<sup>14</sup> COM(2012)492.

<sup>15</sup> They include membership-based, cause-based and service-oriented CSOs. Among them, community-based organisations, non-governmental organisations, faith-based organisations, foundations, research institutions, gender and LGBT organisations, cooperatives, professional and business associations, the not-for-profit media, trade unions and employers' organisations.



## **4. IMPLEMENTATION ISSUES**

### **4.1. Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012.

### **4.2. Indicative operational implementation period**

The indicative operational implementation period of this action, during which the activities described in sections 3.2 and 4.3 will be carried out, is **60 months** from the date of entry into force of the financing agreement or, where none is concluded, from the adoption of this Action Document, subject to modifications to be agreed by the responsible authorising officer in the relevant agreements. The European Parliament and the relevant Committee shall be informed of the extension of the operational implementation period within one month of that extension being granted.

### **4.3. Implementation components and modules**

#### **4.3.1. Grants: 2 calls for proposals "Support to Civil Society" (direct management)**

##### **4.3.1.1. Objectives of the grants, fields of intervention, priorities of the year and expected results**

Objectives and expected results of the calls will reflect all those of the present programme (see sections 3.1 and 3.2).

##### **4.3.1.2. Eligibility conditions**

The essential eligibility criteria for applicants will be as per Article 1.2 of the Communication on "The Roots of Democracy and Sustainable Development: Europe's Engagement with Civil Society in External Relations" (see 3.5).

In case of launching joint call for proposals with funds under other programmes (e.g. thematic programmes/instruments or other programmes in support of civil society under the ENPI/ENI), participation may be restricted or broadened in order to harmonise eligibility conditions (nationality of applicants and/or co-applicants) with those defined in the financing decisions funding other thematic or ENPI/ENI programmes.

##### **4.3.1.3. Essential selection and award criteria**

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

##### **4.3.1.4. Maximum rate of co-financing**

The maximum possible rate of co-financing for grants under this call is 90%.

The maximum possible rate of co-financing may be up to 100 % in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

#### 4.3.1.5. Indicative trimester to launch the call

The first call for proposals will be indicatively launched 3 months after the entry into force of the Financing Agreement.

The second call for proposals will be launched 15 months after the entry into force of the Financing Agreement.

The actual launch dates will be determined taking into account the planning of other relevant civil society oriented programmes (e.g. thematic and ENPI/ENI programmes, or other donors programmes) in view of ensuring better impact and avoid overlaps or confusion. Launching joint call for proposals with funds under thematic and/or ENPI/ENI programmes may also be envisaged.

#### 4.3.2. Procurement (direct management)

Subject	Type	Indicative number of contracts	Indicative trimester of launch of the procedure
Technical assistance to civil society support: to contribute to objectives 1 and 2, and to all expected results	services	1	3 months after entry into force of Financing Agreement
Monitoring and evaluation	services	1	12 months after entry into force of Financing Agreement

#### 4.4. Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act shall apply.

In case of launching joint calls for proposals with funds under other programmes (e.g. thematic programmes/instruments or other programmes in support to civil society under the ENPI/ENI) and in order to have harmonised conditions, eligibility rules (nationality and origin) may be restricted or broadened in accordance with the eligibility rules defined in the financing decisions funding these other thematic or ENPI/ENI programmes.

The responsible authorising officer may extend the geographical eligibility in accordance with Article 9(3) of CIR Regulation<sup>16</sup> on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

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<sup>16</sup> Regulation (EU) No 236/2014 of the European Parliament and of the council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external actions.

#### 4.5. Indicative budget

<b>Module</b>	<b>Amount in EUR millions</b>	<b>Third party contribution (indicative, where known)</b>
4.3.1. – Calls for proposals "Support to civil society" (direct management)	7.5	0.8
4.3.2. – Procurement (direct management)	2.0	N.A.
4.7. – Evaluation and audit	0.5	N.A.
<b>Totals</b>	<b>10</b>	<b>0.8</b>

#### 4.6. Performance monitoring

Monitoring of the activities will be ensured through a monitoring element embedded in each of the contracts, in order to measure performance and achievement of the assigned objectives. A dedicated monitoring and evaluation service contract will complement this element by assessing both the activities and the programme itself. Objectively Verifiable Indicators will be developed (such as the number of consultations undertaken by governments with civil society actors, the satisfaction of international standards by national legislation on associations, etc.).

#### 4.7. Evaluation and audit

A mid-term and final evaluation of the programme will be carried out in the course of the programme implementation.

Projects financed under this Programme will be subject to expenditure verification by an independent auditor where provided for in the contract.

#### 4.8. Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

Visibility measures shall be implemented by the Commission, contractors and grant beneficiaries. Appropriate contractual obligations shall be included in, respectively, financing agreements, procurement and grant contracts. In particular, the technical assistance project will develop a strategy dedicated to communication and visibility of the programme, with the support of the EU Delegation in Ukraine.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.