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Between contentment and disillusionment

EU–Ukraine relations a year after the Orange Revolution

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e **The Enlarged
European Union
and Ukraine**

New Relations



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EU–Ukraine Relations a Year after the Orange Revolution



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1. Introduction

One of the key questions this paper aims to answer is, are the relations between the EU and Ukraine since the Orange Revolution significantly better than they were during the Kuchma presidency (1994–2004)? It will also seek to establish whether those relations have now passed the Rubicon dividing rhetoric from concrete actions. Expectations, especially on the Ukrainian side, were very high at the beginning of 2005. One year later, two contradictory moods dominate relations – a kind of contentment on the one hand and a kind of disillusionment on the other.

Officially, relations are deemed satisfactory, as proclaimed by both sides during EU-Ukraine summit on 1 December 2005. The EU and Ukraine agreed that relations are ‘deeper and stronger’ than ever. They noted several achievements: first, the signing of the EU-Ukraine Action Plan and significant progress in its implementation; secondly, the constructive role of Ukraine in the EU’s CFSP (in particular regarding the Transnistrian conflict and relations with Belarus); thirdly, the opening of negotiations on a visa facilitation agreement and finally, the *de facto* granting of market economy status to Ukraine according to EU Basic Antidumping Regulation.

But unofficially there are many disappointments on both sides. The EU representatives from European institutions and Member States criticise a

lack of serious reform, above all in the sphere of the economy. They also note Ukraine's slow progress in negotiations for WTO membership (Ukrainian authorities aimed to join the WTO in 2005) and the modest achievements in other areas, such as reform of the judiciary. Even officials positively predisposed towards Ukraine, such as the President of the European Commission, Jose Manuel Barroso, is on record as having said during visit of the Ukrainian Prime Minister Yuriy Yekhanurov to Brussels on October 6, 2005 that 'the future of Ukraine is in Europe. The best way to achieve it is not to discuss all the time European Union membership but to achieve concrete results, pragmatic results'. It is evident that the EU is waiting for concrete actions on the part of Ukraine if any form of progressive integration of Ukraine with the Union is to be achieved.

For their part, Ukrainian authorities are disappointed at the EU's rather restrained policy towards Ukraine, above of all in regard to Ukraine's membership perspective. Officially Ukrainian authorities have accepted the EU European Neighbourhood Policy (which makes no allowance for membership) but in fact they are deeply dismayed at being put in the same category with Northern Africa and Middle East countries.

What mood then dominates EU–Ukraine relations a year after the Orange Revolution – contentment or disillusionment? It should be noted that while it might seem that insufficient time has passed since the Orange Revolution to allow for profound changes in in EU–Ukraine relations, the authors of this paper deem that sufficient time has passed to draw conclusions as to whether or not the new style of governance in Ukraine has had an impact on relations and whether or not a change in the EU's approach to Ukraine can be discerned.

2. European Debates in 2005 and their Influence on the Ukrainian Issue: the Position of European Institutions and Key Member States

The EU's policy towards Ukraine in 2005 has to be analysed in a larger context if it is to be fully understood. Attention will be focused on European debates in 2005, both in European institutions and the Member States, and their influence on the Ukrainian issue – EU policy towards Ukraine does not develop in a vacuum, but is a part of political process within the EU. Nevertheless concrete actions on the part of the EU regarding Ukraine in 2005 will also be assessed.

The European Debates which Influence EU Policy towards Ukraine

2005 was a difficult year for the EU. Indeed, it can be said that the EU is facing one of the most difficult crises in its history. The crisis was the result of the failure of the populations in France and the Netherlands to endorse the Constitutional Treaty. Both before and following the referenda, politicians and the public opinion within the EU were preoccupied with the internal problems of the Union. The second crisis issue occurred in the second half of 2005, and revolved around the inability to agree an EU budget for 2007–2013, a matter which was only resolved towards the very end of 2005. This latter issue was important for EU policy towards Ukraine primarily because the EU institutions and Member States were once again

deeply engaged in an internal debate (as was the case with the issue of the Constitution) and distracted from Ukrainian issues – quite simply, Ukraine was a long way down the agenda.

In sum, relations with neighbours who were part of the ENP became a secondary issue, especially during the first half of this year. There is no doubt that these internal frictions have reduced the EU's capacity to develop relations with Ukraine.

The results of the French and Dutch referenda are also likely to have negative reverberations for Ukraine in the longer term, in that they were a sign of popular unhappiness, not only with the enlargement of 2004 but also with any planned subsequent waves of enlargement in general. French society made clear that France (along with the EU as a whole) will have to tread carefully with any further EU extensions or even regarding a more active policy towards neighbours. This unhappiness is triggered by fears of competition from the unemployed labour forces of the new Member States and neighbour countries, which in turn is likely to lead to higher unemployment among citizens of old Member States and/or the removal of production to new Member States or neighbour countries.

It is also evident that 'enlargement fatigue' is widespread in the EU, especially among old Member States. Indeed, the EU has started accession negotiations with Turkey, albeit without much enthusiasm. Furthermore, for the first time the EU has very strongly underlined that negotiations will not by default lead to the full membership of Turkey. On the other hand, the EU has given a green light to Croatia's accession negotiations. Some of other western Balkan countries have also received signals from the EU that their European integration can go ahead, namely Macedonia and Serbia and Montenegro.

However, the majority of EU Member States think that there should be an 'enlargement break' after the entry of Bulgaria and Romania (and

possibly Croatia). The consolidation of the enlarged European Union has become the main issue for the EU for the next several years, according to the opinion of the majority of Member States and representatives of European institutions. In that context a discussion about Ukraine's integration with the EU is very difficult.

Other factors influenced EU policy towards Ukraine in 2005, including the parliamentary elections in Germany and the parliamentary and presidential elections in Poland in autumn 2005. The political agenda in those two countries influenced the EU approach towards Ukraine because both of those Member States were primary actors in the shaping of EU policy towards Ukraine before, during and in first months after the Orange Revolution. It should be noted that Germany and Poland prepared proposals for EU policy towards Ukraine in 2004, before the presidential elections in Ukraine. The elections and then a change of governments in both countries led to a break in activities towards Ukraine for several months.

It should be underlined that all the problems mentioned above are only indirectly connected with EU-Ukraine relations. They are nevertheless significant. Perhaps 'enlargement fatigue' is the most important challenge for these relations. The majority of politicians within the EU cannot imagine an EU-35 or EU-40, a model which is indispensable when we think about the integration of Ukraine with the EU. It seems that many Member States cannot imagine even the partial integration of Ukraine in the Four Freedoms. Therefore, they prefer to delay making any decisions about Ukraine's place in Europe.

Two Positions

As a result of this uncertainty as to 'what next for the EU?', there have emerged two positions concerning Ukraine within the EU. The first position is a 'wait-and-see' policy. This policy requires an assessment of the results

of the impending parliamentary elections in Ukraine in March 2006 prior to formulating further action. (Many politicians and bureaucrats within the EU say that Ukraine needs to 'prove' its democratic credentials during the election, after which the existence of Ukrainian democracy could be deemed to be confirmed). To some extent this is clearly a kind of excuse for the limited engagement of the EU on Ukrainian issues. Such a position can be deemed one of caution. The EU wants to ensure that the democratic changes in Ukraine are irreversible before it commits itself in any meaningful way.

The second position is conditioned by the view that the framework for relations with neighbours, including Ukraine, has been established by the Action Plan of the European Neighbourhood Policy (although in the case of Ukraine, the Action Plan has an addendum in the form of an 'additional letter'). Thus the EU shouldn't offer new proposals or even think about a new policy towards Ukraine prior to the fulfilment of the Action Plan.

Positive Tendency

Following the Orange Revolution there was a distinct change of perception of Ukraine within the EU, especially on the part of old Member States at the societal level. The image of Ukraine and especially Ukrainian society is much more positive than before the Orange Revolution. This positivity has persisted, although predictably there has been a diminution of interest in Ukraine in autumn 2005 in comparison with the level of interest during the Orange Revolution. However, the interest is still much higher and is of a qualitatively different nature than that during Kuchma presidency.

It is clear that there is now a clear understanding of the distinctiveness of Ukraine from Russia, something that was missing prior to the revolution. In the 1990s, Ukraine was perceived as a country which follows the Russian path to democracy and market economy. The Orange Revolution has dramatically changed this perception. Now Ukraine is increasingly perceived

as an independent subject, as a European state with a European society similar to the societies of EU Member States.

Concrete EU Actions toward Ukraine

There were few concrete achievements in EU-Ukraine relations in the last year. Nevertheless the new Steel Agreement for 2005–2006 signed in June 2005 is an example of a more flexible EU approach to Ukrainian products. Quotas for the export of Ukrainian steel products to the EU are being increased. In turn the beginning of negotiations on visa facilitation in November 2005 is an example of progress in the area of Justice and Home Affairs. On the other hand, there is little evidence of a new approach of Member States towards Ukraine. The opening of the Polish economy to Ukrainian direct investments is an example. The purchase of the Polish steelworks in Czestochowa by Ukraine's Donbas Industrial Group could not have happened without the Orange Revolution. A new climate for Ukrainian direct investments in Poland has appeared as a result of democratic changes in Ukraine. The cancellation of visa fees for Ukrainian citizens by Czech Republic, Slovakia, Latvia and Estonia¹, is another example. Member States have offered more assistance for promoting reforms in Ukraine.

Outcomes of December 1, 2005 EU–Ukraine Summit

The EU–Ukraine summit was the most important event in EU–Ukraine relations in 2005. According to an announcement made by the EU at the summit in Kyiv, the European Commission and the EU Member States approved the conclusions as to compliance of the economy of Ukraine with the market criteria set out in the EU Basic Antidumping Regulation and therefore granted Ukraine market economy status. The political decision of the EU was declared during the Ukraine–EU Summit, but the formal procedures in the EU on implementation of this decision are to be finalised in early 2006.

¹ Before Orange Revolution only Poland, Hungary and Lithuania provided free of charge visas for Ukrainians.

In addition to market status granted to Ukraine at the summit, some important documents on energy and transport co-operation were signed. In particular, Ukraine and the European Union signed a Memorandum of Understanding in co-operation in the energy sphere. According to the Memorandum, Ukraine will develop co-operation with the European Union in nuclear safety, integration of markets of electric power and gas, enhancing energy supply security and hydrocarbon transit, structural reform, safety and natural environment protection in the coal branch and energy efficacy.

The two parties also signed an Agreement on some aspects of air transport. The Agreement is considered a prerequisite for further development of co-operation in the forming of a single air space, and for concluding an agreement on co-operation in aviation.

Another important document signed in Kyiv was an Agreement on co-operation in the Galileo satellite navigation system between the EU, its Member States and Ukraine. The Agreement provides for Ukraine's direct participation in the Galileo project and involvement in the realisation of the first EU Space Program, which will be made public in late 2005, as well as Ukraine's membership of the European Space Agency.

However, all those achievements have not resulted in a new coherent EU policy realized by the EU as a whole and by its Member States.

3. Ukraine's European Policy: Achievements, Shortcomings and Challenges

Following the inauguration of President Yushchenko on January 23, 2005, a 'new' Ukraine tried to demonstrate the validity of its European integration policy by abandoning rhetoric for practical measures. The new government was so ambitious that it seriously considered making a membership application to the EU in February–March. However, the decision was taken to follow the recommendations of EU Commission and postpone any application until the completion of the Action Plan, in the belief that only then would the EU be ready to consider such an application in a positive way.

Among the priorities set by the Ukrainian government the most important are the following: fighting corruption and strengthening the rule of law, obtaining market economy status, joining the WTO and obtaining mutual market access, development of trans-European networks, improving administrative capacity in European integration and strengthening and increasing the pro-European majority in society at large.

In order to supplement the bilateral EU Ukraine Action Plan and fulfill it, on April 22 the government adopted a so-called Roadmap which included more than 300 practical actions in different areas of integration provided by Action Plan. In August, the Deputy Prime-Minister Oleh Rybachuk reported that 70 per cent of the Roadmap had been implemented. Non-official evaluations are less optimistic, however.

Administration of the European Policy of Ukraine

In the first “Orange” government, led by Yulia Tymoshenko (February 4 – September 8, 2005) the post of Deputy Prime-Minister on European integration was created. The first appointee to this post, the above-mentioned Oleh Rybachuk, undertook measures to create a workable administrative structure capable of coordinating all governmental policies related to the EU-Ukraine agenda. The Department of European integration was established in the framework of the Secretariat of the Cabinet of Ministers.

After the change of government on September 8 and Rybachuk’s subsequent appointment as Head of President’s Secretariat, the post of Deputy Prime-Minister on European integration was abolished. Instead, Yehanurov’s government, the successor government to that of Yulia Tymoshenko which had been dismissed by Yushchenko, established a governmental Committee on European Integration under the chairmanship of Foreign Minister Borys Tarasyuk.

Efficient policy coordination remains a serious challenge for the new government. Despite some achievements and ongoing effort to create an efficient structure, the government is struggling to create a workable structure on EU related issues, let alone fill them with highly qualified specialists and establish stable links with Parliament in order to ensure support for necessary legislation.

Rule of Law

The new regime led by president Yushchenko proved to be substantially more transparent and democratic than the previous one. According to Freedom House report “Freedom in the World” published in December 2005, Ukraine is the only CIS country considered “free” (Russia is “non-free”, Georgia is “partially free”, for example). However, stable and mature institutions ensuring the rule of law are not yet entrenched and the democratic changes

are not yet deemed irreversible. The pre-electoral period monitoring suggests that the government is unlikely to interfere in the parliamentary and local elections: parties currently enjoy unlimited access to media and appear unhindered by any administrative barriers to political activity.

The principal political consensus has been achieved on the need to decentralize power by providing more power to local and regional authorities, but the concrete shape of reform remains undecided. The activities of local self-government councils are highly circumscribed, lacking as they do real power and financial resources. A proposal for comprehensive administrative and territorial reform was presented by the Deputy Prime-Minister Roman Bezsmertny in April 2005. This proposal suggested: a revision of the division of powers between state administration bodies (subordinated to the president) and self-governance bodies with a view to shifting power from the former to the latter; changes in budget constitutions and their spending; redistribution of taxes according to new territorial structures. A new system of state governance for taxes, budgets and municipal structures is being developed. Due to the upcoming electoral campaign, further debates on local governance reform were postponed until after the 2006 parliamentary and local elections.

Substantial progress in the area of media freedom may be considered the key achievement of the Ukrainian government in the aftermath of the Orange Revolution and subsequent change of regime. The citizens of Ukraine currently enjoy the whole range of pluralism in electronic and printed media. Nation-wide TV channels in general provide balanced news coverage; representatives of ruling parties and the opposition have equal access to them. Indeed, although most of the nation-wide TV channels and newspaper media were privately owned by members of Kuchma's entourage prior to the revolution, none of them has been reprivatized in favour of people close to Yushchenko after his election. At the same time, the Ukrainian media still need substantial reform and restructuring. Lots of regional and local TV and radio stations, as well as newspapers, remain in the hands of state

bodies and administrations. Public TV and broadcasting, despite numerous declaration and promises, has not yet been established.

Fight against corruption and establishment of fair power was a prominent aim of the new power in 2005. Former high rank corrupted officials of the old regime were removed from power, however none of large corruption cases passed through the court. It was also a year of corruption scandals within high-ranking officials of the new government. Corruption allegations had ambiguous impact on political environment of Ukraine. On the one hand, the scandals have demonstrated significant improvements in power transparency in Ukraine. Such a situation could not appear in Kuchma's times of "mutual solidarity" of high officials. On the other hand, it has ultimately misbalanced the emerging political system of new Ukraine.

Economy

The growth of Ukraine's GDP has slowed substantially when compared to previous years – it is estimated that the economy will grow a rate of between 2–3 per cent (as compared to the double digit growth of the previous year). However income per capita has continued to grow quickly with a \$170 average monthly salary in 2005 compared to \$125 the year before. The inflation rate is estimated at 10–11% in 2005.

On October 24th, Ukraine sold 93.02% of the shares of Kryvorizhstal, a large and profitable plant accounting for about 20% of Ukraine's steel production with its own significant raw-material reserves and close location to the Black Sea ports. Kryvorizhstal was sold to Mittal Steel for about \$4.8 billion in an open auction. The price was six times higher than the amount paid in the mid-2004 tender by the previous owner (that purchase was recognized illegitimate by court) and exceeded the most optimistic forecasts. Despite this success, which became the largest privatization and investment deal in Ukraine, it would be premature to speak about a sustainable improvement in the investment climate in Ukraine. Business/taxation

legislation, as well as the property rights protection system, still remains unreformed.

Customs service reform led to a significant increase (up to 50%) in budget revenues. This was not only because of simplified custom procedures but also of the fact that customers could refer to 'special officials' if they suspected corruption on the part of customs officials. However, custom reform is still incomplete.

WTO

Despite partial success achieved in legislation and bilateral talks, Ukraine ultimately failed to achieve its repeatedly declared objective of WTO membership in 2005. In part this was because parliament refused to ratify at least five of the necessary laws. In addition, Ukraine failed to reach an agreement with the USA and Australia on the parameters of bilateral protocols on mutual market access. This in turn will lead to the postponement of the start of negotiations on a free trade area between Ukraine and the EU, initially planned by Ukrainian side for first half of 2006.

Ukraine's Participation in CFSP/ESDP

Ukraine became substantially closer to the EU political position on a wide range of foreign policy issues. Ukraine's government officially supported a number of EU statements, including those on Belarus and other sensitive issues.

In April 2005 Ukraine presented the so-called 'Yushchenko Plan' to solve the ongoing Transnistrian conflict. This plan, welcomed by the EU, envisages a sustainable and peaceful solution by encouraging democratic development in Transnistria. In line with the plan, the EU has joined the resumed negotiations on the Transnistria process as an observer.

On December 1, 2005 the EU Border Assistance Mission on the Ukraine-Moldova border was launched. This mission aims to monitor the situation on the 450 km Transnistrian part of the Ukrainian-Moldovan border in order to assist counter-smuggling and counter-criminal activities of the Ukrainian border and custom services. It is the first such mission established by the EU. The office of EU Border Assistance Mission opened in Odessa on November 30.

4. Is the ENP Action Plan a Workable Framework for Integration?

The Action Plan requires the fulfilment of tasks which are indispensable for building closer relations in pursuit of integration with the EU. Nevertheless, the Plan lacks the most encouraging incentive – a membership perspective. The Action Plan utilises some policies which were elaborated in the accession process. At the same time, a lack of benchmarks and incentives restricts the efficacy of the AP as an outline of integration to the EU. The only conditional “carrot” in evidence is the promise to start talks on the creation of a free-trade area after Ukraine’s accession to the WTO. For example, no benchmarking is provided in the area of the movement of people, something which weakens the incentives for Ukraine to implement the Schengen-like migration and border policy.

After 10 months of AP implementation only a very preliminary assessments of the success of its implementation can be made. However, although the AP itself is not currently a powerful enough motivator for deepening EU–Ukraine relation, it may help promote integration if both parties agree on concrete measures and additional commitments. Existing additional measures adopted by the EU Council in February 2005 and Decision #117-p which enforced “Actions on EU–Ukraine Action Plan implementation in 2005” (the so-called “Roadmap”) adopted by Ukrainian government in April 2005 are evidence that such an approach can work.

Ukrainian “Roadmap”

The “Roadmap” is a comprehensive (113 pages) document which foresees more than 300 actions in 2005 in all priority spheres of Ukraine’s policy related to the EU–Ukraine agenda. For example, if the AP provides only general recommendations for cooperation in the CFSP, the Roadmap requires an elaboration of concrete mechanisms for Ukraine’s external policy statements to be congruent with those of the EU. Most of the AP provisions regarding regional policy (primarily the Transnistrian conflict solution) may be considered as having been implemented. Generally, Ukraine was successful in implementing the chapters on “Political Dialog and Reforms” and “Regional and International Issues, Cooperation in Foreign and Security Policy”.

According to the AP, Ukraine committed itself to satisfying the criteria necessary for joining the WTO. The Roadmap provides necessary details for doing so: an elaboration of legislation on customs duties on ferrous metal scrap, for instance. This law, along with other “WTO packages”, has been elaborated and submitted to Parliament, but not approved yet. The largest part of the Roadmap relates to legislative initiatives. Due to a lack of parliamentary support, the government failed to get a great number of draft laws provided by the Roadmap through the Rada, the Ukrainian parliament. That means that while a large part of Roadmap may be considered as fulfilled, formally, the necessary laws have not yet been adopted by the Rada. This legislation is likely to be approved only after the 2006 parliamentary elections.

In August the Deputy Prime-Minister Oleg Rybachuk reported that the level of Roadmap implementation reached 70%. During December 1 EU–Ukraine Summit the parties mutually expressed their satisfaction with the achieved level of AP implementation. Non-official evaluations are less optimistic, however. In practice, the government has started to implement

about 70% of actions, but the level of completely implemented actions may be estimated as about half of this number (i.e. 35%).

Despite its limited success, it is clear that at the moment the Roadmap derived from the AP, provides one of few concrete and comprehensive legal guidelines for the Ukrainian government in terms of which domestic reforms to pursue. Written commitments vis-à-vis the EU also serve as an instrument of public control over government.

EU Additional Measures

Additional Measures adopted by the EU Council in February 2005 have tightened up some of the vaguer points of the AP. A promise to begin negotiations on visa facilitation before the EU–Ukraine Summit of December 2005, included in the measures, is a good example.

On November 21–22, 2005 in Brussels the first round of Ukraine-EU negotiations on an agreement for visa facilitation took place. This event is a compelling example of successful cooperation between Ukraine and the EU in the framework of the Action Plan. It is the first serious step towards extending to Ukraine the principle of the freedom of movement of persons, a fundamental European value.

Ukraine expects that the future visa facilitation agreement will become a foundation for further liberalization of the travel regime of citizens. In particular, the agreement should establish single simplified procedures for considering visa applications of Ukrainian citizens by the EU Member States' Consular Missions, envisage the possibility of free or substantially cheaper visas for wide categories of persons, allow for the issuance of multiple-entry long-term visas for certain categories of persons who have a positive visa history, increase transparency in the issuance of visas, as well as envisage visa-free entry for particular categories of persons. However, according to the draft agreement, submitted by the EU side, Brussels offered

a more conservative approach to visa facilitation. The next round of talks is scheduled for January 2006.

Moreover, Additional Measures have helped in the development of co-operation between Ukraine and the EU in the field of CFSP/ESDP (Transnistria case has been mentioned above). The measures have also strengthened EU efforts in granting Market Economy Status to Ukraine and facilitated the conclusion of a new agreement for steel products for 2005–2006.

General Assessment

It should be underlined once more that the Action Plan is too vague an instrument and can be seen as a source of general political guidance for closer relations of Ukraine with the EU over the next 2–3 years. Therefore, the role of the AP, strengthened by EU Additional Measures and the Roadmap, in shaping Ukraine's domestic and foreign policy agenda may be considered a positive development. In domestic debates, reference to the EU–Ukraine AP usually strengthens the position of those who argue in favour of deeper reforms, in particular in terms of establishing a foundation for public television and broadcasting, implementing active anti-corruption and anti-trafficking policies, customs reform etc.

Both instruments, namely the EU Additional Measures and the Roadmap, help in terms of evaluating the implementation of the Action Plan. From the very beginning of AP implementation, a consortium of Ukrainian independent think tanks under the leadership of Razumkov's Centre launched a project to monitor AP fulfilment. A methodology to evaluate the AP is still being developed as the existing model of evaluation previously applied to the EU candidate countries is not an appropriate tool in the case of Ukraine. Some aspects of this non-governmental monitoring of AP implementation are available in #7/2005 issue of National Security and Defence magazine published by the Razumkov Centre.

5. Prognosis and Recommendations for 2006

No principal decision on Ukraine and its European prospects is likely to be taken in 2006. Instead, parties will continue to concentrate on the implementation of Action Plan.

The Parliamentary elections of March 2006 will substantially affect EU-Ukraine relations as their outcomes will lead to either a confirmation or a reconsideration of the political priorities proclaimed by Ukraine in 2005. The elections are important for the EU in that they will send a clear message about both how embedded democracy is in Ukraine and also how well the platform of pro-European parties are received.

The EU needs a profound discussion on its future (the decision making process, ultimate frontiers, etc.). This discussion will be held in 2006, but without any immediate conclusions, as this will be a prolonged debate, the results of which will only emerge over time. Though the debate concerns Ukraine only partially, its results will be decisive for the European perspective of Ukraine.

Recommendations for the EU

Additional measures, prepared unilaterally by the EU, have impacted positively on EU–Ukraine relations in 2005. They have stimulated EU–Ukraine discussions on visa facilitation for instance, primarily because of the more concrete Action Plan. It is therefore imperative that the list contained in the Additional Measures is not seen by the EU as a one-off response to the demands instilled by the Orange Revolution, and instead forms part of a longer-term programme. For example, such lists could be prepared yearly, to cover each year covered by the Action Plan, leading to a stimulation of relations with Ukraine over 2006 and 2007. Thus, the next list of Additional Measures with concrete proposals should be presented by the EU in 2006, preferably before EU–Ukraine summit scheduled for July 2006. The fulfilment of main points from the current list of Additional Measures should be an indispensable condition for the creation of the next list.

In this context Ukraine's entry to the WTO and the achievement of visa facilitation agreement play a crucial role. Both aims should be achieved in the first half of 2006. WTO membership is an indispensable step for further integration of Ukraine with EU's single market. Any continuing delay will undoubtedly damage EU–Ukrainian economic relations. The progress in the visa facilitation process is very important for the Ukrainian society, especially in terms of its attitude to the EU (more about visa facilitation negotiation – see appendix) let alone the improvement in the livelihood of its citizens.

Any subsequent list of additional measures proposed in 2006 could include the following proposals:

Firstly, the announcement of negotiations on the creation of a Free Trade Area between the EU and Ukraine, which could start by the end of 2006. Secondly, a consideration of the possibility of conducting a feasibility study on the eventual introduction of a customs union between Ukraine and the

EU (based on the experience of the Turkey–EU customs union) as a next step after the implementation of a free trade regime.

The continuation of negotiations on visa facilitation with the development of the Roadmap towards visa free travel between Ukraine and EU will provide criteria and benchmarks according to which Ukraine's graduation from EU visa „black list” in the mid-term future (5–7 years after the ratification of the first agreement on visa facilitation) can be assessed.

In order to accelerate the work on a future 'enhanced agreement', both parties should start a debate on the basic principles and ideology of any such future 'enhanced agreement' in 2006; no such debate is currently taking place.

A concrete offer of EU financial assistance should be made. This would be covered by the European Neighbourhood and Partnership Instrument in 2007 in particular, as well as in the following years. The offer should fix priority areas, the amount of the assistance allocated and define clear criteria which would be needed for obtaining the assistance.

Recommendations for Ukraine

On the basis of a comprehensive evaluation of a Roadmap-2005, the Ukrainian government should elaborate a Roadmap for 2006, taking into account the achievements and shortcomings detected in 2005.

The following are suggestions for measures to be implemented or actions to be pursued:

In order to strengthen the institutional capability of the Ukrainian government in the sphere of European integration, the existing governmental Committee on European and Euro-Atlantic integration should be

transformed into fully-fledged governmental body with its own professional staff responsible for the day-by-day coordination of governmental activity related to Ukraine's EU agenda. Clear lines of subordination should be established.

In the proposed regional and local governmental administrative reform, Ukraine should create structures that are compatible with those of the EU Member States in order to ensure interoperability between the EU and Ukraine at those levels.

In the sphere of JHA, Ukraine should elaborate measures to make its border management and passport legislation compatible with EU standards. For example, currently, Ukrainian passport holders who have been ejected from an EU state or refused entry to an EU state can simply change their family name in Ukraine (perhaps by adopting the maternal name) and apply for a new passport, thereby evading measures to prevent their entry into the EU. For its part, Ukraine can provide more restrictive conditions for those who want to change his/her family name and thereby close this loophole.

In terms of economic and judicial reform, Ukraine needs to modernise its legislation on property rights and corporate management in order to avoid further disputes over ownership and management of enterprises. This is a basic precondition for an increase of FDI in Ukraine.

Taking into account the emerging opportunities provided by the European Neighbourhood and Partnership Instrument, which will be available since 2007, Ukraine should develop its own list of priorities and concrete investment/assistance projects to be considered by the EU. A similar list of priorities and projects may be suggested by Ukraine to the European Investment Bank.

6. Conclusion

Considering the difficult circumstances, both in the EU and Ukraine in 2005, the achievements of EU–Ukraine relations are more than modest but less than substantial. Both sides have done less than they could have achieved in this year. For example, the EU could have conferred Market Economy Status and started negotiations on visa facilitation agreement earlier (at least in summer). Ukraine, in return, missed a real chance to become WTO member in 2005.

It seems both parties are close to understanding that in current conditions, when a fast transfer to an accession paradigm is unlikely, they should focus above all on short-term realistic measures, which, for the benefit of society at large and the political and business elites in both the EU and Ukraine are both visible and accountable. Concrete achievements made in 2006–2007 may lead the EU to reconsider the substance of Ukraine’s prospect, including the actual option of EU membership.