

EASTERN PARTNERSHIP INDEX 2015-2016

CHARTING PROGRESS IN EUROPEAN
INTEGRATION, DEMOCRATIC REFORMS,
AND SUSTAINABLE DEVELOPMENT



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Charting Progress in European Integration, Democratic Reforms, and Sustainable Development

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Eastern Partnership Civil Society Forum

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THE EASTERN PARTNERSHIP IN 2015-2016: A LONG ROAD TO SUSTAINABLE DEMOCRATIC INSTITUTIONS

TOP CHALLENGES FOR 2018

- The governments of the Eastern Partnership countries must focus on institutionalising reforms, making them sustainable and less dependent on changes in political power and less susceptible to political instability;
- The EU should reinforce support and incentives to implementation of the Association Agreements in Georgia, Moldova, and Ukraine, with even greater emphasis on promotion of an independent judiciary and prosecution service, and establishment of independent agencies to tackle corruption;
- The EU's differentiated approach must preserve support to civil society and tolerate no compromise on support for the democratic and pro-European aspirations of the societies of Armenia, Azerbaijan and Belarus;
- The EU should play a more proactive role in fostering a joint EU response to the long-term security threat posed by Russia to the EU-Russia neighbourhood and to Europe as a whole.

A WINDOW FOR REFORMS, BUT TOUGH CHALLENGES AHEAD

The joint declaration of the Eastern Partnership Summit, agreed in Brussels on 24 November 2017, welcomed the approach of “strengthened differentiation in bilateral relations” between the EU and the respective Eastern Partnership (EaP) countries.

This differentiation took its clearest shape in the distinction between those three countries – Georgia, Moldova, and Ukraine – that signed Association Agreements (AAs) with the EU, ushering in a much closer stage of integration, and the more fluid relations evident in various agreements and forms of engagement between

respectively Armenia, Azerbaijan, and Belarus and the EU. The declaration also reaffirmed that “the EU's incentive-based approach (‘more-for-more’) will continue to benefit those partners most engaged in reforms”.¹

Since the last Eastern Partnership Index was published in March 2015, the Eastern Partnership (EaP) region has seen important developments and trends.

First, the incentive-based approach towards the three AA signatory countries has laid the basis for a process that is set to continue for many years to come. With the ratification and

¹ *Eastern Partnership Summit - Joint Declaration*, European Council, 24 November 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/11/24/eastern-partnership-summit-joint-declaration/>

the entry into force of AAs, including Deep and Comprehensive Free Trade Areas (DCFTAs), between the EU and respectively Ukraine, Moldova and Georgia, both the EU and these countries committed themselves to a long-term deepening of their ties.

The AAs extend across a range of policy areas, with provisions that will impact many aspects of political, economic, and social life in the three countries. For the medium and long run, the agreements amount to a comprehensive charter for economic modernisation and good governance, with a large degree of reliance on the adoption of EU regulatory norms and technical standards, mostly over periods of three to seven years.

The EU on its part, while gradually integrating Moldova, Georgia, and Ukraine into its internal market, will provide aid to work on strengthening the rule of law, implementing crucial judicial reforms, fighting the impact of both small-scale and high-level corruption, ensuring respect for human rights, and reinforcing democratic institutions. The agreements do not imply commitments to full accession to the EU, but neither is that excluded over the longer run.

Moldovan citizens have enjoyed visa-free travel to the Schengen countries since April 2014, and were joined by Georgians and Ukrainians in March and June 2017 respectively. This development has put the countries firmly on track to foster closer people-to-people contacts with EU citizens, a window of opportunity still denied to citizens of Armenia, Azerbaijan, and Belarus.

Secondly, however, developments over the past few years have shown that none of the EaP countries can lay claim to having sustainable democratic institutions. Periods of relative liberalisation have been replaced by more authoritarian situations and vice-versa. Corruption, particularly at the highest level, has continued to be a pervasive problem.

If anything, all six countries have been rather volatile. For instance, Moldova, which after 2009 was seen as a poster child in the region, has since 2015 been plagued by instability, a high degree of polarisation in society, and flagrant “state capture” by business groupings.

On the other hand, Ukraine, which saw an unprecedented monopolisation of power under the presidency of Viktor Yanukovich, has managed since the Revolution of Dignity in 2014 to lay the foundations for the path towards democracy and good governance with the initiation of a number of important reforms.

The relative balance of power between reform-oriented groups in society and forces and factors holding back, or turning back, reforms remains very fragile across the region.

Thirdly, Russia has become a more important factor in undermining security in the region. While Russia had served as a destabilising factor before and was instrumental in provoking frozen conflicts in the region, the annexation of Crimea put into question the entire post-war international order. The conflict in Eastern Ukraine, which has been continuously sustained by Russia, undermines the security order throughout Europe.

As well as military means, Russia still possesses numerous scope for leverage to undermine the process of state-building and democratisation in the EU-Russia neighbourhood through supporting “friendly” political parties, establishing an “alternative civil society”, or spreading disinformation through the media and groups of societies in EaP countries prone to paternalistic thinking.

This interference poses a challenge for EU modernisation efforts in the region. The consensus of public and elite opinion in favour of a democratic EU-oriented trajectory is difficult to sustain unless the respective countries’ political leadership – both in government and opposition – not only share a commitment to democracy and the rule of law, but also show sustained integrity in fighting corruption and separating business from politics. All the six countries have struggled to overcome this challenge.

SIX COUNTRIES, MANY STREAMS

At a time when Azerbaijan was clamping down on civil liberties – arresting civil society representatives, independent journalists, and opposition politicians on trumped up charges – Belarus released nearly all its political prisoners and began to seek a rapprochement with the EU as a part of its balancing act between the EU and Russia. In reciprocation, the EU lifted sanctions (an asset freeze and travel ban on 170 Belarusian officials, including President Alyaksandr Lukashenka, and an asset freeze against three companies).

The EU proceeded to sign a Mobility Partnership in the field of migration policy with Belarus in October 2016, and accelerated talks on a visa facilitation agreement with the country.

Just as the EU has sought to find mutually beneficial areas for agreement with Armenia, Azerbaijan and Belarus, so it has also come to realise that it lacks leverage to promote sustainable, irreversible reforms, not least in the event of a change of political power, in the three AA signatory countries as well. This was evident in Moldova, when the political crisis followed the 2014 parliamentary elections, and the rivalry between the leaders of the EU-oriented parliamentary parties resulted in the dismissal of three cabinets during 2015. Once a government majority was formed, the methods used to induce MPs to switch party allegiance left the new government with questionable legitimacy.

The future directions of Ukraine and Georgia are not secured either.

In Georgia, since the parliamentary elections in October 2016, the ruling Georgian Dream-Democratic Georgia has a supermajority in parliament, and has used that to pass amendments to the constitution, not least a change in the voting system for parliamentary elections and after 2018 the abolition of direct presidential elections.

There are some positive changes in the amendments, and in December 2017 the ruling party introduced further amendments that address some of the concerns expressed by the Council of Europe's Venice Commission, but the walkout of civil society and other political parties from the State Constitutional

Commission highlighted the lack of consensus around the constitutional reforms.

Given the weakness of the political opposition, there are concerns that the changes – which include measures to further weaken the powers of the President – might erode the system of checks and balances in the country.

In Ukraine, where the momentum for reforms is still relatively strong, the EU has a chance to test a new approach. The approach should put continuing civil service reform and reform of judiciary at the centre, since those reforms, if successful, would provide for implementation and enforcement of legislation and would institutionalise the reform efforts, laying the basis for their sustainability.

THE EU: TESTING NEW APPROACHES AND FLEXIBILITY

The Index, since its first edition in 2011, has reflected the division between two groups of countries in their efforts towards European integration, with Armenia straddling the two groups.

This is evident again in the Index 2015-2016, where the continuation of Armenia's progress in approximation to EU standards that started ahead of its government's U-turn from signing an Association Agreement in 2014 remains intact, and it is placed together with the three AA signatory countries – Georgia, Moldova, and Ukraine. The worst placed EaP country in *Approximation* is Belarus.

In contrast, in the *Linkage* section of the Index 2015-2016, Armenia is placed scarcely better than Belarus, lagging far behind the three AA signatory countries, reflecting the lower intensity of political dialogue and the reorientation of Armenia's trade flows towards Russia since it joined the Eurasian Economic Union (EAEU). The worst-placed EaP country in *Linkage* is Azerbaijan.

Moldova is the frontrunner in both dimensions of the Index 2015-2016, but is closely followed in *Linkage* by Georgia and in *Approximation* by Ukraine.

The EU has taken note of the different trajectories and shifted its approach. It came to accept the fact that the transformation of the EaP countries was mostly domestically driven and that profound and sustainable change could not be imposed from outside. Moreover, the EU came to realise that the logic of enlargement does not work in the EaP countries: the EU cannot offer the same incentives (most notably, a membership perspective) and allocate the corresponding level of financial resources to support transformation in the EaP countries if the domestic drive for EU-oriented reforms is much weaker than it had been perceived to be when first the European Neighbourhood Policy, and later the Eastern Partnership initiative, had been launched.

The EU also came to realise the much greater complexity of the region. The path towards this approach was gradual. At first, the region was seen through the prism of two groups of countries, differentiating between those that signed AAs and those with whom other modes of co-operation were chosen. Later on, it became clear that the region was more complex and diverse, and that each country deserved a more tailored approach.

As a result, the Eastern Partnership policy, which had been based on a rather uniform approach, was transformed into a policy driven by strong differentiation among the partner countries, although still within a common framework. The new approach was well reflected in the Joint Communication *Review of the European Neighbourhood Policy*, published in November 2015, which stipulated that “differentiation and greater mutual ownership will be the hallmark of the new ENP, recognising that not all partners aspire to EU rules and standards, and reflecting the wishes of each country concerning the nature and focus of its partnership with the EU”.² In the same vein, the EU’s Global Strategy, published in June 2016, talked about “deepening tailor-made partnerships further”.³

On the level of practical support, the EU has managed relatively well too. It responded with deeper engagement and an unprecedented

² https://eeas.europa.eu/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf

³ *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the EU’s Foreign and Security Policy*, p. 25, European External Action Service, June 2016, https://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf

level of assistance to Ukraine in the wake of the crisis after the Revolution of Dignity, exacerbated by Russia’s aggression against its sovereignty and territorial integrity. The EU also worked to assist Armenia in identifying areas of co-operation that would reconcile the contradictions resulting from Armenia’s membership in the EAEU, resulting in the Comprehensive and Enhanced Partnership Agreement (CEPA), signed between Armenia and the EU at the Eastern Partnership Summit in November 2017.

In the case of the CEPA, the EU has left a lot of leeway for the partner government to design the implementation of the agreement. There will be negotiations on the roadmap for implementation, for which the EU is waiting for the Armenian government to propose a “logical sequence of steps and legislation”.

The EU should put greater emphasis on the inclusion of civil society in a meaningful way, for example within functional trilateral formats – and not just in Armenia in relation to CEPA implementation, but also in other EaP countries.

‘ *Moldova is the frontrunner in both dimensions of the Index 2015-2016, but is closely followed in Linkage by Georgia and in Approximation by Ukraine.* ’

The EU should also put more effort into standing alongside the EU-oriented civil society in countries where civil society faces smear campaigns and attacks on their integrity from the side of local politicians, such as in Moldova. Civil society has also come under attack in other EaP countries, and growing pressure has

been observed in Armenia in relation to CEPA. One positive step in 2016 was the government initiative in Georgia to change the critical approach towards the EU of the influential, but conservative, Orthodox Church.

In February 2017, the EU and Azerbaijan launched talks on an alternative to an association agreement, namely one that would focus on security, trade, and investment, in line with Azerbaijan's wishes. The problem of securing a commitment on the part of the government of Azerbaijan to embark on political reforms, not to mention democratisation, respect for human rights and media freedoms, will not be resolved in the proposed new Strategic Modernisation Partnership Agreement. Civil society has not been included in consultations on the content of the proposed agreement.

LOOKING FOR A COMMON DENOMINATOR

Nevertheless, finding common ground for all the partner countries is also important to preserve a coherent policy and to identify and elaborate niches for engagement with all the partner countries. Thus, as part of the 20 Deliverables for 2020 for the Eastern Partnership, first published in December 2016, and revised in June 2017,⁴ the EU announced the plan for a European Fund for Sustainable Development, and the Summit declaration in November 2017 emphasized the signatories' support for "delivery on the key global policy goals set by the UN 2030 Agenda for Sustainable Development".

A focus on sustainable development and tackling climate change is one where the EU can set common objectives in its bilateral agreements with the EaP countries, while also working with them to support their compliance with multilateral commitments on climate change and environmental protection.

Similarly, continuous support to civil society should be regarded an important long-term

⁴ EU Revises the 20 Key Deliverables for 2020 for the Eastern Partnership, European External Action Service, 13 June 2017, https://eeas.europa.eu/headquarters/headquarters-homepage/28117/eu-revises-20-key-deliverables-2020-eastern-partnership_en

investment in all countries of the region. The EU has reaffirmed its commitment to strengthening the role of civil society in the EaP countries in holding governments accountable, as a part of what the EU calls "societal resilience", at the same time as recognising that this is an investment in the future, and that long-term commitment is needed.⁵

In the declaration at the Brussels summit in November 2017, the parties agreed that "civil society is an indispensable partner for the government as driver of reform and promoter of accountability". However, it remains unclear how this commitment is going to work in practice in all the countries. For Ukraine and also for Moldova and Georgia, and partially Armenia, what has become known as the "sandwich effect" – joint pressure for reform on the side of domestic reformist forces and external partners – might be an effective tool for moving reforms forward. In Ukraine the EU, together with other external actors, has played an important and often decisive role in promoting reform initiatives in this way.

Yet, in the countries where the authorities do not want closer engagement with the EU, such an approach leaves civil society and reform-minded actors alone in their fight and aspirations for a better future.

Through this EU approach, the authorities in these countries can cherry-pick what they see as beneficial (for instance, EU support for infrastructure projects), but avoid taking on commitments to promote and protect human rights. This is very much the case of Azerbaijan and Belarus, and to a lesser extent Armenia. The EU is still searching for a formula for sustained engagement with countries where the governments have other aspirations, but in doing so to ensure that EU support is proportional to the extent to which these authorities are prepared to make commitments to democratic standards and human rights.

⁵ Ibid., p.27.

RENEWED MUTUAL FOCUS ON DEMOCRATIC REFORMS AND CONFLICT RESOLUTION

The differentiated approach the EU has adopted is a good response to the current challenges, but the degree of flexibility on the part of the EU will be tested in its response to the abuse of political freedoms and human rights, in particular whether it supports civil society, the rights of opposition political parties, and human rights defenders, in particular in Belarus and Azerbaijan.

To make the differentiation approach more functional, the EU needs to strengthen its presence on the ground in each country so as to be able to react swiftly and enable a shift the balance of power, where possible, in favour of sustainable democratic developments.

In countries that have AAs, tailoring and strengthening conditionality to influence ongoing domestic developments might be a good idea. In Azerbaijan and Belarus, the EU needs to be more involved where basic human rights and political freedoms are concerned, while in Armenia strengthened support to an already active and EU-oriented civil society might bear fruit in the longer term.

Developments in all the countries have shown that periods of success can often be replaced by a backlash as was the case in Moldova with the election in November 2016 of President Igor Dodon who favours closer ties with Russia and withdrawal from the Association Agreement with the EU, or in Ukraine after the Orange Revolution and the election of Yanukovich.

In Belarus, back in 2010, despite a rapprochement with the EU, a brutal crackdown on peaceful protests followed the presidential election, opposition candidates were jailed, and a drastic deterioration in human rights ensued, together with a corresponding worsening of the relationship between the Belarusian government and the EU. Despite the thaw in relations with the EU, in March 2017 numerous authors, publishers and journalists were arrested in another crackdown in Belarus.

In short, positive developments in the EaP countries have proved to be very fragile and the enactment and implementation of

reforms cannot yet be considered sustainable. More attention should be paid to developing institutions that sustain certain reforms to the point where they are considered almost “irreversible”.

On top of that, special attention should be paid to civil service reform and to measures to strengthen the independence of both the judiciary and the prosecution service.

The EU has proven to be a relatively weak actor where the security situation is concerned. As the case of Ukraine has shown, individual member states, particularly Germany, have taken a lead in trying to resolve the military conflict between Ukraine and Russia, and to promote a ceasefire through launching the Minsk talks.

On the other hand, the EU has demonstrated solidarity by agreeing and sustaining sanctions against Russia. This, however, does not tackle a fundamental problem – the fact that Russia does not accept the sovereignty of countries in the EaP region. This will remain a long-term challenge that can undermine the EU’s efforts to promote sustainable democratic developments in the region.

In line with the EU-NATO declaration issued at the Warsaw Summit in July 2016,⁶ the European Centre of Excellence for Countering Hybrid Threats was launched in Helsinki, Finland, in September 2017.⁷

The governments of Georgia, Moldova, and Ukraine need to overhaul their own security sectors, and they can forge a mutually beneficial partnership with EU and NATO members by sharing their expertise in hybrid warfare and counterintelligence, which could strengthen early warning systems in the face of security threats.

The EU does not have the defence and deterrence capacity of a military alliance, but either through proactive EU member states (France and Germany in the case of the Minsk talks), through the concerted engagement of the European External Action Service, and

6 Joint declaration by the President of the European Council, the President of the European Commission, and the Secretary General of the North Atlantic Treaty Organization, 8 July 2016: http://www.nato.int/cps/en/natohq/official_texts_133163.htm

7 <https://www.hybridcoe.fi/>

offices such as the EU Special Representative for the South Caucasus and the Crisis in Georgia, the EU does have the potential for sustained diplomatic engagement to reduce tensions and resolve ongoing conflicts, and a more proactive approach in this area would build further confidence in the EU project in the EaP countries.

WHAT IS THE EASTERN PARTNERSHIP INDEX?

The *Eastern Partnership Index 2015-2016* charts the progress made by the six Eastern Partnership countries towards sustainable democratic development and European integration. The Index measures steps taken on the path towards good governance, including the observance and protection of democracy and human rights, sustainable development, and integration with the European Union.

The EU's Eastern Partnership initiative, launched in 2009, signalled the commitment of the governments of the six Eastern European partner countries (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, and Ukraine) to respect the values of democracy and human rights, and to align with EU standards of good governance and the rule of law.

From the beginning of the Eastern Partnership initiative, the respective national governments in the Eastern Partnership countries expressed clear differences in aspirations concerning closer integration with the EU. While some had aspirations of membership, others saw a turn to the west as a challenge to long-lasting ties with Russia, and others wanted to pursue a more multipolar approach.

The period covered by the Index marked the first full years of implementation of the Association Agreements between the EU and respectively Georgia, Moldova, and Ukraine, including the entry into force of the Deep and Comprehensive Free Trade Area agreements (although delayed in the case of Ukraine).

While Azerbaijan continued to seek a tailored bilateral relationship with the EU, Armenia joined Belarus in the Russia-led Eurasian Economic Union (EAEU). In the case of Armenia, the turn towards the EAEU came after intense negotiations and progress towards signing an Association Agreement with the EU. The period covered by this edition of the Index saw Armenia work with the EU on resurrecting the non-trade parts of the

Association Agreement, saw a lifting of EU sanctions towards Belarus, and continuing negotiations between the EU and Azerbaijan towards a "strategic modernisation partnership agreement".

The Index is designed to chart progress and reverses in reforms, but also to generate recommendations to guide countries along the reform process and to signal concerns when progress is flagging or even reversed. The Index is also intended to serve as an important monitoring tool for policymakers, independent researchers, think-tanks and civil society actors.¹

CHARTING THE PATH TOWARDS EUROPEAN INTEGRATION AND SUSTAINABLE DEMOCRATIC DEVELOPMENT

The Eastern Partnership Index is a set of individual and composite indicators which measure the extent to which the six Eastern European neighbour countries of the European Union have established sustainable democratic institutions and practices, and the level of their integration with the EU. "Integration" is conceived here as a core and multi-dimensional concept that consists of converging norms, growing economic exchange, deeper transnational networks linking up societies, and more frequent contacts between people.

This broad notion of integration implies that EU membership or association may be aims, stages or final states of the integration process. However, it is not limited to a normative approach, or a measure of harmonisation with EU norms and standards, but also reflects actual societal, economic and political change. The levels of contractual relations between the

¹ The Index does not cover the situation in the separatist-held territories of eastern Ukraine, Russia-occupied Crimea, Nagorno-Karabakh, or the breakaway regions of Transnistria, South Ossetia, and Abkhazia.

Eastern Partnership (EaP) states and the EU are viewed as elements of a much broader process that is, as a whole, not driven or controlled solely by governments and intergovernmental negotiations.

Rather, European integration is seen as a non-hierarchical, networked process where citizens, civic associations and business organisations play important roles. The interplay of these actors has been crucial for the historical development of the EU itself, as it induced and supported national political elites to take legal and institutional steps towards closer integration. Drawing on this experience, the Index is built on the premise that the ties between societies, peoples and economies form dimensions of European integration that are at least as important as the policy agendas of national governments and European Commission officials.

It is further assumed that transnational linkages contribute to the emergence and spread of common European and international norms which, in turn, facilitate closer linkages with the EU. For example, increasing trade is likely to strengthen domestic companies that benefit from foreign investment and are likely to become more aware of the importance of courts that protect investors' rights. A judicial system based on fair procedures and professionalism will then contribute to attracting more foreign investors.

An analogous reinforcing dynamic derives from a commitment to international norms and universal values. By incorporating democratic values, the protection of human rights and the rule of law in their constitutions, EaP states have adopted universal norms that have formed the basis of co-operation and integration among West European states since the end of the Second World War.

Further absorption of the core principles of the EU, laid down as a threshold for membership (Copenhagen criteria), gives a further indication of alignment with the EU member states and the capacity for the EaP countries to transform their economies and societies. The more these norms are implemented and respected in EaP states, facilitating sustainable democratic development, the more co-operation with the EU will ensue because these states and the EU will increasingly recognise each other as partners sharing common norms and underlying values.

Furthermore, harmonisation with the norms of sustainable democratic development stretches beyond the European integration agenda. Just as observance of the rule of law, and its application in a non-arbitrary fashion, and the existence of freedom of expression and a competitive party political system, are measured in line with international norms and good practice, so the protection and observance of human rights is a universal norm.

Just as the elements of "deep and sustainable democracy" are set out in the index, so are measures of sustainable development, including attainment of the UN sustainable development goals. Sustainable development in terms of key indicators such as health, poverty, and education, as well as environmental protection, are therefore given a central place in the Index, given their relevance to social and economic development and the fostering of a sustainable democratic society.

This fundamental idea of sustainable democratic development leading towards European integration and its driving forces is reflected in the conceptual design of the Eastern Partnership Index (see **The Two Dimensions of the Index**, pages 18-19).

The Index is the continuation of what was formerly known as the *European Integration Index for Eastern Partnership Countries*, building on the strong focus on the European integration process, and updating the index to reflect the current medium- and long-term challenges of sustainable development, human rights and democracy, and security and international co-operation in a tense political region. The earlier Index had three dimensions *Approximation*, *Linkage*, and *Management* (of the EU integration process). To strengthen the focus of the Index and to emphasize that the Eastern Partnership Index 2015-2016 is of direct relevance also to the countries whose governments have not expressed clear-cut aspirations towards closer European integration, *Management* has been folded into the other dimensions.

Data in the 2015-2016 Index covers the period of March 2015 - December 2016, combining independent analysis with annual quantitative data to provide a snapshot of progress in the attainment and ongoing implementation of internationally recognised democratic standards and practice.

Two dimensions of European integration are distinguished in the construction of the Index: *Approximation* and *Linkage*.

The first dimension, *Approximation*, captures the extent to which EaP countries have implemented key EU norms and international standards. This dimension is divided into three sections. The first section comprises the adoption and implementation of human rights and democratic principles that are, amongst others, defined in the European Convention on Human Rights, by the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE), including the preceding Helsinki process.

The remaining two sections examine:

- whether states have converged with EU norms on trade, security, migration, energy, environment and transport infrastructures; and
- whether states have achieved the sustainable development goals defined by the United Nations in 2015-2016.

The second dimension, *Linkage*, encompasses the transnational linkages between business, civil society, citizens and governments in EaP countries and EU countries. This dimension consists of three sections.

The section on international security and co-operation examines how EaP and EU governments coalesce in crucial areas of international security, defence, border management and development. Intergovernmental contacts are conceptualised as a part of an emerging “European society”, not as a (facilitating or constraining) framework for societal linkages. This section also considers the extent to which the EaP states control their own security as sovereign actors.

The section on economy and trade measures the extent to which trade and investment integrate the EaP countries with the EU. In addition, the integration of energy supplies/markets and the density of transport links are assessed separately, since these two sectors constitute crucial infrastructures for economic integration. The section on Citizens in Europe measures the extent of mobility, migration and communication flows of citizens between EaP countries and the EU. Societal linkages are not only conceived as a set of bilateral EU-

EaP relations following a hub-and-spokes or centre-periphery model. Rather, intra-EaP linkages are also taken into account. The Index focuses on migration as a process leading to deeper European integration and, ultimately, the full freedom of movement. Migration is not understood here as a threat to the EU’s internal security or as an EU policy to prevent illegal migration with the help of EaP states.

This structure does not attempt to mirror the items on the EU’s Eastern Partnership agenda because, firstly, this agenda will be increasingly differentiated and tailored to match the varying aspirations and priorities of the individual EaP states. Thus, comparison of the EaP countries’ compliance with diverging official agendas will become increasingly difficult, if not impossible.

Secondly, since the Index is developed in the context of the Eastern Partnership Civil Society Forum, the Index aims to represent the views of civil society rather than only the positions and priorities of the European Commission and national governments. Rather than tracing the implementation of governmental and Commission-level policy agendas down to every technical detail, the Index focuses on outcomes that matter most for people and society.

Adopting the perspective of civil society has manifest advantages. It is a step towards more “ownership” on the part of civic associations and society within the Eastern Partnership, contributing to “societal resilience”. In addition, this inclusive comparative perspective provides space and a voice for the citizens of EaP countries whose governments are not currently interested in further European integration.

Reflecting the underlying perspective of civil society, the Index places particular emphasis on people-to-people contacts and transnational linkages among civil society organisations. In contrast, the governmental agenda of sectoral regulatory alignment is less extensively covered.

Taken together, the Index has four important characteristics:

- It sets out a detailed standard for the assessment of “deep and sustainable democracy”.
- It provides a cross-country and cross-sector picture that is both nuanced and comparative. The six countries are assessed across a common set of questions and indicators.

- It goes further than the EU integration process, looking at reforms for their intrinsic merits in strengthening democracy, good governance, security and sovereignty, and sustainable development in the respective countries.
- Finally, the Index offers independent analysis provided by experts in the partner countries.

The full breakdown, and the questionnaire and sources underpinning the Eastern Partnership Index 2015-2016, are available at www.eap-index.eu.

The detailed methodology of the Index is explained in the chapter, **Methodology of the Index**.

The Index was developed by a group of more than 50 civil society experts from EaP and EU countries. Many more contributed comments at various stages. The Eastern Partnership Index was initiated and launched in 2011 by the International Renaissance Foundation and Open Society Foundations. Since then, four editions of EaP Index have been published. The Eastern Partnership Civil Society Forum took over as leader of the project in 2014 and has subsequently produced the Index.

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THE TWO DIMENSIONS OF THE INDEX

* Sections marked with an asterisk are not counted towards the scores in the Index

APPROXIMATION DIMENSION

1 DEEP AND SUSTAINABLE DEMOCRACY (DEMOCRACY & HUMAN RIGHTS)

1.1 Democratic Rights and Elections, including Political Pluralism

- 1.1.1 Fair electoral campaign
- 1.1.2 Legal framework and its
implementation
- 1.1.3 Organisation of elections
- 1.1.4 Electoral competitiveness

1.2 Human Rights and Protection Against Torture

- 1.2.1 Violations of civil liberties and human
rights
- 1.2.2 Legal framework

1.3 Accountability

- 1.3.1 Executive accountability to legislature
 - 1.3.1.1 Legislature's influence over executive
 - 1.3.1.2 Legislature's institutional autonomy
 - 1.3.1.3 Legislature's specific powers
 - 1.3.1.4 Legislature's institutional capacity
 - 1.3.1.5 Conditions for opposition
- 1.3.2 Transparent budgeting
- 1.3.3 Democratic control over security
and law enforcement institutions
 - 1.3.3.1 Internal control
 - 1.3.3.2 Parliamentary oversight
 - 1.3.3.3 Transparency
 - 1.3.3.4 Civil society oversight

1.4 Independent Media

- 1.4.1 Media freedom
- 1.4.2 Internet

1.5 Freedom of Speech and Assembly

1.6 Independent Judiciary

- 1.6.1 Appointment, promotion and dismissal of
judges
- 1.6.2 Institutional independence
- 1.6.3 Judicial powers
- 1.6.4 Accountability and transparency

1.7 Equal Opportunities and Non- Discrimination

- 1.7.1 International and regional human rights
legal documents (Has your country ratified ...?)

1.7.2 Anti-discrimination legislation

1.7.3 Anti-discrimination policy

1.8 Rule of Law and Fighting Corruption

- 1.8.1 Control of corruption
- 1.8.2 Internal and external auditing
- 1.8.3 Public procurement

1.9 Public Administration

- 1.9.1 Policy formulation and co-ordination
- 1.9.2 Impartial and professional civil service
 - 1.9.2.1 Legal framework of civil service
management
 - 1.9.2.2 Institutional framework
 - 1.9.2.3 Employment and remuneration
 - 1.9.2.4 Recruitment, promotion, and
disciplinary procedures
 - 1.9.2.5 Management of public service quality

2 EU INTEGRATION AND CONVERGENCE

2.1 Market Economy and DCFTA

- 2.1.1 Business climate
- 2.1.2 Sector transition
- 2.1.3 DCFTA
 - 2.1.3.1 Trade defence instruments and technical
barriers to trade
 - 2.1.3.1.1 Trade defence instruments
 - 2.1.3.1.2 Technical barriers to trade (TBT)
 - 2.1.3.2 Sanitary and phytosanitary measures
 - 2.1.3.3 Customs and trade facilitation
 - 2.1.3.4 Services and establishments
 - 2.1.3.5 Capital
 - 2.1.3.6 Intellectual property rights
 - 2.1.3.7 Competition and state aid

2.2 Freedom, Security and Justice

- 2.2.1 Visa dialogue
- 2.2.2 Irregular immigration, including
readmission
- 2.2.3 Border management
- 2.2.4 Security and combatting organised crime

2.3 Energy: Legislation Convergence and Energy Policy

- 2.3.1 Institutional framework of energy market
- 2.3.2 Energy efficiency

2.4 Environment and Climate Policy

- 2.4.1 Environmental policy
- 2.4.2 Climate change

2.5 Transport: Regulatory Policy

3 SUSTAINABLE DEVELOPMENT

3.1 Sustainable Development Policy

3.2 Sustainable Development Goals

3.2.1 Health and poverty

3.2.2 Education and life-long learning opportunities

3.2.3 Gender equality and women's empowerment: legal framework in place to monitor equality and non-discrimination

3.2.4 Water and sanitation

3.2.5 Sustainable economic growth

3.2.6 Resilient infrastructure, sustainable industrialisation, and innovation

3.2.7 Ensure sustainable consumption and production patterns

3.2.8 Resource efficiency

3.2.9 Pressure on/state of environment

3.2.10 Protect, restore and promote sustainable use of terrestrial ecosystems

3.3 Education and Culture

3.3.1 Education

3.3.2 Cultural policy

3.3.3 Youth policy

LINKAGE DIMENSION

1 INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION

1.1 Political Dialogue

1.2 Intergovernmental Co-operation and Engagement in EaP Multilateral Events/Panels

1.3 International Security Co-operation

1.3.1 CFSP/CSDP Co-operation

1.3.2 OSCE *

1.3.3 Defence strategy and international co-operation

1.3.4 Defence capacity *

1.4 Border Security

1.5 EU Funding of Security Projects

1.6 Development Assistance from EU and Other Donors

1.6.1 European Neighbourhood and Partnership Instrument (ENPI)

1.6.1.1 Country-specific

1.6.1.2 ENPI East regional/interregional)

1.6.1.3 Thematic instruments and programmes, and special technical assistance

2 SECTORAL CO-OPERATION AND TRADE FLOWS

2.1 Trade with EU: Commodities

2.2 Investments and Loans from EU

2.3 Trade with EU: Services

2.4 Trade Defence Instruments

2.5 Energy Interdependence

2.6 Transport: Integration with Trans-European Networks

2.7 Environment

3 CITIZENS IN EUROPE

3.1 Cultural Exchange

3.2 Co-operation in Science and Education

3.3. Mobility, including Academic and Student Mobility

3.4 Communication and Information Society

THE 2015-2016 INDEX - KEY RESULTS AT A GLANCE

ASSOCIATION AGREEMENT SIGNATORIES, HEADED BY MOLDOVA, LEAD THE INDEX

The entry into force of the Association Agreements (AA) saw continued progress in integration with the EU in the case of Georgia, Moldova, and Ukraine in the period covered by the Eastern Partnership Index 2015-2016 (March 2015 - December 2016).

In both dimensions of the Index, Moldova emerged as the frontrunner, albeit with only a slight advantage over Georgia in *Linkage* and over Ukraine in *Approximation*.

In *Linkage*, there was a clear divide between the three AA signatories and the other three Eastern Partnership countries – Armenia, Azerbaijan, and Belarus.

However, in the case of *Approximation*, there was a pronounced divide between on the one side four countries - the three AA signatories and Armenia, in third place narrowly ahead of Georgia – and the weakest two performers, Azerbaijan and Belarus, not least due to these two countries' persistent failings in democracy and human rights. The score of Armenia confirms the continuation of progress made prior to the country's withdrawal from an Association Agreement with the EU.

Both Ukraine and Moldova have a steep hill to climb to make the most effective use of the Deep and Comprehensive Free Trade Area (DCFTA) agreement. While the EU is the largest trade partner of both countries, and Moldova and Ukraine have the largest share of EU imports, the three South Caucasus countries and Belarus all have a significantly more favourable business environment than Moldova and Ukraine.

While Belarus engaged in negotiations on visa facilitation and readmission agreements with the EU, and released most political prisoners, Azerbaijan began negotiations on a Strategic Modernisation Partnership Agreement, but sustained its poor record on human rights.

HIGHLIGHTS

Moldova was the leading reformer in the EaP region in meeting EU standards. It achieved the highest *Linkage* score of all six countries, although it continued to lag behind Ukraine and Georgia when it came to International Security, Political Dialogue and Co-operation. It was also outperformed by Ukraine in Sectoral Co-operation and Trade Flows. Moldova, by the end of the period covered by the Index 2015-2016, remained the only country that enjoyed visa-free travel to the Schengen countries, ensuring the country the most developed people-to-people links with the EU, and the lead in the Citizens in Europe section.

Moldova also led in *Approximation*, where it shared with Georgia the best results in Deep and Sustainable Democracy, within which Moldova scored highest on accountability and anti-discrimination policy. In EU Integration and Convergence, Moldova was a close second to Ukraine, but was the second worst performer on business climate, and lagged behind both Georgia and Ukraine on DCFTA. Together with Ukraine, it was the strongest performer on freedom, security and justice. Moldova also scored highly on Sustainable Development, level with Azerbaijan, but behind Armenia, but was the worst performer when it came to meeting the UN Sustainable Development Goals (SDGs).

Georgia was the second best performer in *Linkage*. It was a close second to Ukraine in International Security, Political Dialogue and Co-operation, but failed to match Ukraine and Moldova in Sectoral Co-operation and Trade Flows. In Citizens in Europe, Georgia was second after Moldova, but had the highest score for cultural exchange and also for co-operation in science and education.

Georgia was fourth after Moldova, Ukraine and Armenia in *Approximation*, although it held first place, jointly with Moldova, for Deep and Sustainable Democracy, notably leading on fair elections, independent media, and rule of law and fight against corruption. For EU Integration and Convergence, Georgia ranked joint third

with Armenia, even though it led the field on market economy and DCFTA. On Sustainable Development, it shared last place with Belarus. Georgia in particular lacked a strategy or active policy co-ordination on sustainable development policy.

Ukraine, in third position in *Linkage*, enjoyed the highest position in International Security, Political Dialogue and Co-operation, and held the lead in Sectoral Co-operation and Trade Flows. Ukraine had by far the most intense political dialogue with the EU. However, the country shared the lowest place with Azerbaijan in Citizens in Europe, owing to low scores for cultural engagement and co-operation in science and education.

Placed a close second in *Approximation*, Ukraine was not far from the scores of Moldova and Georgia for Deep and Sustainable Democracy, and progress in reforms since the Revolution of Dignity was reflected in Ukraine's status as the best performer in freedom of speech and assembly and also independent judiciary. Ukraine held first place on EU Integration and Convergence, albeit with the worst ranking for business climate. Although Ukraine took fourth place on Sustainable Development, the issue is climbing higher on its political agenda with the establishment by the government in 2016 of a high-level working group on the implementation of the SDGs.

Armenia ranked fourth in *Linkage*, scarcely better than fifth-placed Belarus. Armenia was placed joint fourth in International Security, Political Dialogue and Co-operation, far behind the three AA countries. Only Belarus was placed lower in Sectoral Co-operation and Trade Flows, a reflection of Armenia's turn away from the EU market towards Russia since joining the Eurasian Economic Union (EAEU), further exacerbated by energy dependence on Russia. Armenia fared better, in third place, in Citizens in Europe, reflecting higher scores for cultural engagement and co-operation in science and education.

In *Approximation*, Armenia was placed third, ahead of Georgia, although it trailed in fourth place in Deep and Sustainable Democracy – well behind the three AA countries, although also far ahead of Belarus and Azerbaijan. For EU Integration and Convergence, Armenia was placed jointly third with Georgia, and was placed second, behind Georgia, for market economy and DCFTA. Armenia took first

place for Sustainable Development, and had put in place a sustainable development policy co-ordination structure, although concerns persisted concerning deforestation, ineffective management of water resources, and weak pollution controls.

Azerbaijan ranked last in *Linkage*, within which it was in the lowest place for International Security, Political Dialogue and Co-operation. Its fourth place for Sectoral Co-operation and Trade Flows, ahead of Belarus and Armenia, reflected its stronger trade ties with the EU – Azerbaijan is not an EAEU member. Azerbaijan tied with Ukraine in the lowest place for Citizens in Europe, reflecting the lack of mobility and visa-free travel, alongside the low level of cultural exchange and co-operation in science and education.

In *Approximation*, Azerbaijan was placed fifth, far behind the leading four countries, but also significantly ahead of Belarus. Placed fifth for Deep and Sustainable Democracy, Azerbaijan was sixth when ranked for democratic rights and elections, including political pluralism, media freedom, and violations of civil liberties and human rights. Ranked fifth for EU Integration and Convergence, Azerbaijan was the second lowest for market economy and DCFTA, although the country performed better than Ukraine and Moldova on business climate. Azerbaijan was placed joint second for Sustainable Development, reflecting the low level of pressure on the environment and positive indicators of sustainable economic growth.

Belarus ranked fifth in *Linkage*, where it was joint fourth for International Security, Political Dialogue and Co-operation, with a far lower level of political dialogue than any other EaP country. Belarus took sixth place in Sectoral Co-operation and Trade Flows. Due not least to the high number of students and other applicants for visas to the EU, Belarus was better placed – fourth – in Citizens in Europe.

Placed sixth in *Approximation*, Belarus has the worst record in Deep and Sustainable Democracy, including sixth place for independent media, and – along with Azerbaijan – for freedom of speech and assembly. Belarus also featured in last place for EU Integration and Convergence, although it fared better than Ukraine and Moldova on business climate. Belarus was placed joint fifth on Sustainable Development.

MOLDOVA

GEORGIA

UKRAINE

2015-2016

APPROXIMATION



2015-2016

LINKAGE



ARMENIA

AZERBAIJAN

BELARUS

2015-2016



APPROXIMATION

2015-2016



LINKAGE

MOLDOVA

GEORGIA

UKRAINE

APPROXIMATION



DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)

0.71

0.71

0.70



EU INTEGRATION AND CONVERGENCE

0.69

0.66

0.70



SUSTAINABLE DEVELOPMENT

0.78

0.64

0.77

ARMENIA

AZERBAIJAN

BELARUS



APPROXIMATION

DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)

0.58

0.32

0.28



EU INTEGRATION AND CONVERGENCE

0.66

0.57

0.42



SUSTAINABLE DEVELOPMENT

0.81

0.78

0.64



MOLDOVA

GEORGIA

UKRAINE

LINKAGE



INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION



0.71

0.76

0.78

SECTORAL CO-OPERATION AND TRADE FLOWS



0.61

0.56

0.64

CITIZENS IN EUROPE



0.72

0.66

0.46

ARMENIA

AZERBAIJAN

BELARUS



LINKAGE



INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION

0.45

0.31

0.48



SECTORAL CO-OPERATION AND TRADE FLOWS

0.39

0.50

0.35



CITIZENS IN EUROPE

0.57

0.46

0.54



COUNTRY ASSESSMENTS

MOLDOVA

TOP CHALLENGES FOR 2018

- The EU should link the direct budgetary support provided to Moldova to tangible and objectively measurable outcomes in combating corruption, strengthening the independence and transparency of the judiciary and law enforcement agencies, and ensuring media freedom;
- The EU should enhance the support provided to independent media and civil society organisations to strengthen their role as social watchdogs and mobilising actors;
- The EU should also increase the support for concrete economic and social development projects, with an emphasis on small and medium-sized enterprises (SMEs), local public authorities, educational and healthcare systems;
- The Moldovan authorities should ensure timely and consistent implementation of commitments under the EU-Moldova Association Agenda 2017-2019;
- The government and parliament should take tangible measures to depoliticise state institutions and strengthen their independence from political interference, and should launch a sustained, open and inclusive dialogue with civil society to improve public sector transparency and accountability.

FROM A 'SUCCESS STORY' TO A 'CAPTURED STATE'

During 2015-2016 the relations between the EU and Moldova were strained by a prolonged political crisis generated by a series of corruption scandals and political infighting. The US\$1 billion bank fraud that erupted at the end of 2014, shortly after the 2014 parliamentary elections, seriously shook Moldova's financial, economic and political stability.

The political crisis also revealed the fragility of state institutions and the superficiality of the democratic reforms implemented to date. In the course of one year, Moldova turned from a "success story" of the Eastern Partnership into

what became regarded both inside and outside the country as a "captured state", marked by endemic corruption and the almost full control of key state bodies by narrow political and private interests.

In an environment where public opinion is finely balanced between those favouring closer integration with the EU and those favouring closer ties with Russia, the rivalry between the leaders of three EU-oriented parliamentary parties made the formation of a coalition government a difficult task. The political infighting between the leaders of two main coalition parties and, at the same time, Moldova's top oligarchs, Vladimir Filat of the Liberal Democratic Party of Moldova (PLDM) and Vladimir Plahotniuc of the Democratic Party of Moldova (PDM), accusing each

other of large-scale corruption, paralysed the functioning of state institutions, whilst three cabinets were dismissed during 2015.

The economic crisis caused by the ransacking from three Moldovan banks of US\$1 billion, or 15% of Moldova's GDP, triggered a wave of anti-government protests from February 2015 to January 2016. The protests, which resumed in 2017, were initially organised by an EU-oriented civic platform, "Dignity and Truth", that denounced political corruption, excessive politicisation of law enforcement and regulatory institutions, and the lack of progress in investigating the bank fraud.

Parties oriented towards strengthening relations with Russia later joined the protests and demands for the resignation of the government and president, and calling for snap parliamentary elections and a national referendum to reinstate direct presidential elections. The state institutions' inability to curb corruption and investigate the banking fraud eroded public trust in government so much that at the end of 2015 it fell to a historic low of 7%.¹

The scale of banking fraud and endemic corruption undermined international donors' confidence in the governing political class: the International Monetary Fund (IMF), the World Bank and the EU froze financial aid in 2015. Concerned by the situation of the Moldovan financial sector, the EU conditioned the resumption of budgetary support on Moldova reaching a new agreement with the IMF and undertaking concrete reforms to address systemic corruption, politicisation of state institutions and the judicial sector, and conducting a genuine investigation into the banking fraud.

The jailing of the former prime minister, Vladimir Filat, on corruption charges in October 2015 paved the way for the concentration of legislative, judicial and executive power in the hands of one political-oligarchic group represented by Plahotniuc's PDM. The subsequent construction by the PDM of a new informal parliamentary majority raised serious concerns among society and the political opposition about the methods used to induce MPs to switch parties to facilitate

1 Barometer of Public Opinion, Institute for Public Policy, November 2015 and April 2016, <http://bop.ipp.md> (question - How much do you trust the following institutions?).

the majority. By the time of the deadline to approve the new government of prime minister Pavel Filip on 20 January 2016, PDM's initial 19 MPs had grown to unofficial control of 43 MPs, after absorbing Communist Party and PLDM defectors. These numbers, together with the support of the PDM's long-time ally, the Liberal Party, were sufficient to install a PDM-controlled government.

Thus, the legitimacy of the government headed by PDM's Pavel Filip remained largely disputed in society. PDM continued to concentrate its political power throughout 2016, by continuing to break up parliamentary factions and extending its political influence over the judicial system and local public administration, actions that repeatedly raised the concerns of EU officials.²

EU-MOLDOVA POLITICAL DIALOGUE: REBUILDING TRUST

Despite the declared stance of Filip's government in support of closer European integration, the further advancement of relations with the EU was clearly conditional on tangible achievements in implementing reforms. As a result, the government focused its efforts in 2016 on regaining the donors' confidence in order to unfreeze external assistance and rebuild the government's legitimacy among the pro-European part of society.

On 15 February 2016, the EU urged the government to persevere to achieve tangible results to the most stringent problems faced by the country and to resume the implementation of the Association Agreement. In response, the government and parliament adopted a Priority

2 "Pirkka Tapiola nedumerit de hotărârea instanței de a suspenda din funcție un primar pentru tăierea copacilor" (Pirkka Tapiola [the then EU Ambassador to Moldova] Perplexed by Court Ruling to Suspend a Mayor for Cutting Trees), Agora, 5 July 2016, <http://agora.md/stiri/17893/pirkka-tapiola-nedumerit-de-hotararea-instantei-de-a-suspenda-din-functie-un-primar-pentru-taierea-copacilor>, and Statement by the Spokesperson of EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, in reply to questions from the media on the case of Judge Domnica Manole, 3 June 2016, <https://www.facebook.com/EUDelegationMoldova/posts/1396050847077532>.

Reform Action Roadmap.³ The document included key measures to be implemented during March-July 2016 in order to embark on a number of long-postponed structural reforms. To push for a speedy implementation of the Roadmap and the National Action Plan for implementation of the Association Agreement, the new governing coalition established new co-ordination mechanisms, or revived previously existing ones. The government reanimated the Commission for European Integration, while the parliament set up a Committee for European Integration.

Although the authorities implemented the Roadmap only partially, mainly with regards to measures of a legislative nature, the signing of a new memorandum with the IMF and the geopolitical significance of the forthcoming presidential elections on 30 October 2016 (decided in a second round on 13 November) convinced the EU to unfreeze the budget support assistance, but at the same time to impose more concrete policy conditions. One of the key conditions was the dismantling of opaque ownership structures and lending in the banking sector. In December 2016, the EU disbursed €45.3m to support four sectoral budget programmes.⁴

In order to prove its commitment to the European integration agenda, the government drafted and adopted a new National Action Plan for the Implementation of the Association Agreement (2017-2019), after reporting that almost 74% of the previous plan has been implemented.⁵ A shadow civil society report concluded that a more moderate level of implementation of 63% had been completed – with most of the achievements in the legislative area.⁶ In parallel, the EU and Moldova started to draft a new Association Agenda for 2017-2020.

³ *Council Conclusions on the Republic of Moldova*, European Council, 15 February 2016, <http://www.consilium.europa.eu/en/press/press-releases/2016/02/15-fac-moldova-conclusions/>.

⁴ *The EU is Resuming Budget Support Assistance to the Republic of Moldova*, European External Action Service (EEAS), 23 December 2016, https://eeas.europa.eu/headquarters/headquarters-homepage/18141/eu-resuming-budget-support-assistance-republic-moldova_en.
⁵ http://www.mfa.gov.md/img/docs/Raport-privind-implementarea-AA-2014_2016.pdf.

⁶ *Shadow Progress Report 2014-2016. Synthesis and Recommendations. Implementation of the EU-Moldova Association Agreement*, Institute for European Policies and Reforms (IPRE), 24 March 2017, <http://ipre.md/2017/03/24/5175/?lang=en>.

Overall, the dialogue between the EU and the Moldovan government began to slowly improve from mid-2016 onwards, and the EU's critical rhetoric changed to a more "pragmatic" tone. The EU opted for soft conditionality in relations with the government to ensure the country's political and economic stability, to keep Moldova on a trajectory of European integration, and to maintain leverage to push for at least some reforms.

Along with the other EaP countries, Moldova ratified the Paris Agreement on Climate Change, but it was the only EaP country to have adopted a national action plan on climate change mitigation in accordance with its international obligations. A national strategy on climate change adaptation was also adopted in Moldova.

In the **Approximation** section of the Index 2015-2016, Moldova features as the frontrunner among the EaP countries, although the slower pace of reforms during the reporting period leaves it only narrowly ahead of second-placed Ukraine.

In the **Linkage** section of the Index 2015-2016, Moldova is also the frontrunner, narrowly ahead of Georgia. Moldova's score was bolstered by the strengthened trade links with the EU since the start of the Association Agreement. Moldova is placed narrowly behind Georgia when it comes to the density of societal connections with the EU, especially regarding co-operation in science and education, and cultural exchange. At the same time, Moldova trails both Ukraine and Georgia in the depth of political dialogue with the EU, reflecting the EU's concerns at some of the setbacks in the democratic development of the country.

A REVIVAL OF EAST-WEST POLITICAL DISPUTE

The failure of the EU-oriented governments to implement sustainable democratic reforms and the systemic corruption perpetuated by the ruling coalition parties gave rise to widespread popular dissatisfaction and a significant loss of trust in the European integration path of the country. By the end of 2016, public support for Moldova joining the Russia-led Eurasian Economic Union (EAEU) reached 53%,

surpassing the level of support for Moldova joining the EU (53%).⁷

The presidential election victory of Igor Dodon, chair of the Party of Socialists of the Republic of Moldova (PSRM) – a supporter of closer relations with Russia – renewed discussions on Moldova’s geopolitical orientation vis-à-vis the EU and the EAEU.

The direct presidential elections held in October-November 2016 were made possible after the Constitutional Court’s ruling of 4 March 2016 to reinstate the constitutional provisions on direct presidential elections that had been in place prior to 2000. The legitimacy of the game-changing court decision was strongly contested by the opposition parties. It was perceived as politically motivated and favouring the ruling PDM, because it deflected opposition protesters’ attention away from their demand for early parliamentary elections and on domestic political issues.

Although the court reintroduced direct presidential elections, it did not change the candidates’ eligibility criteria. Thus, Renato Usatii, the leader of Homeland Party and a key opponent of Dodon, was removed from the race, increasing Dodon’s chances of winning the election.

Dodon tapped into popular frustration and, during the election campaign, he positioned himself as an outsider untainted by corruption scandals. Mostly appealing to the rural, Russian-speaking and Gagauz voters, he campaigned for withdrawal from the EU-Moldova Association Agreement and for building closer ties with Russia. He argued that improved relations with Russia would ease the situation for Moldovan migrant labour in Russia, would reopen the Russian market to Moldovan agricultural production and would enable a solution of the Transnistrian conflict.

Dodon enjoyed the backing of Russian media – a strong influence on Moldova’s information landscape – and the veiled support from media holdings owned by PDM leader Vladimir Plahotniuc. The unprecedented mobilisation of voters residing in the Transnistrian region, allegedly ensured by the pro-Russian Transnistrian authorities, and the almost unanimous support of Gagauz voters secured

7 Barometer of Public Opinion, IPP, October 2016, <http://bop.ipp.md/en/result/liniar> and <http://bop.ipp.md>.

Dodon’s victory over his second-round opponent, the EU-oriented opposition candidate Maia Sandu, Chairwoman of the Party for Action and Solidarity, by a relatively narrow margin, 52.11% to 47.89%. An investigative journalists’ report traced the origins of financing of Dodon’s campaign to allegedly Russia-linked offshore funds.⁸

Although international observers concluded that the run-off election was competitive and fundamental freedoms were respected, a number of irregularities were identified. These included unbalanced media coverage, harsh and intolerant rhetoric, disinformation, widespread abuse of administrative resources, lack of campaign finance transparency, and restrictions on voting abroad.⁹ The elections reaffirmed that Moldovan society is highly polarised in terms of geopolitical orientation.

Despite limited presidential powers to shape the country’s foreign policy, Dodon took a number of controversial initiatives shortly after his inauguration, such as the removal of the EU flag from his residence and later (in April 2017) he sought observer status for Moldova in the EAEU, and thereby signalled that his anti-EU rhetoric was not going to soften.

On the one hand, a confrontation followed between the government and the president, for instance over the choice of a defence minister (culminating in a court-backed temporary suspension of the President, so that the government could move forward with its own choice of minister).¹⁰

On the other hand, the two leading political parties – Plahotniuc’s EU-oriented PDM and Dodon’s Russia-oriented PSRM – colluded in pushing through a new mixed voting system for future parliamentary elections (combining 50 seats chosen by proportional representation

8 Information revealed by an independent journalistic investigation produced by RISE Moldova, <https://www.rise.md/articol/banii-lui-dodon-din-bahamas/>.

9 *Republic of Moldova Presidential Election 30 October and 13 November 2016, OSCE/ODIHR Election Observation Mission Final Report*, Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe, 15 February 2017, <http://www.osce.org/odihr/elections/moldova/300016?download=true>.

10 The Constitutional Court temporarily suspended President Dodon on 20 October 2017, so that the government could confirm Eugen Sturza as the new Defence Minister after Dodon had twice rejected his nomination. On 17 November, the court issued a ruling, mandating that if the head of state refuses to carry out his constitutional duties by rejecting a cabinet nomination twice, this represents grounds for temporary suspension from office.

with 51 chosen in single-member districts), a system likely to favour well-financed political parties, such as their own. The new mixed system was adopted despite the criticism of the Venice Commission¹¹ and the warnings of the EU.¹²

Plahotniuc placed the East-West geopolitical dimension at the top of the political agenda at the expense of key priorities, such as anti-corruption and justice sector reforms. At the same time, Dodon's criticism of the trade agreement with the EU and its negative effects on Moldova's economy is at odds with the continuing rise in Moldovan exports of goods to EU countries, which reached 65.1% of total exports in 2016 (against 61.9% in 2015), while the exports to CIS countries fell to 20.3% (25% in 2015).¹³ Besides, the EU remained the biggest development partner of Moldova, in 2016 providing 21.5% of total foreign aid (€440m) to Moldova.¹⁴ The country received no economic aid from Russia or any other CIS country during 2015-2016.

WINDOW-DRESSING DOMESTIC REFORMS

The 2015 political crisis put the implementation of the Association Agreement on hold. With a stable government in place, the key overdue reforms were resumed in 2016, but with an uneven impact. The government focused mainly on the accomplishment of commitments under the Priority Reform Action Roadmap, aimed to restore the trust of the EU and unlock financial assistance.

11 Joint opinion of the Venice Commission on the draft laws on amending and completing certain legislative acts (electoral system for the election of Parliament), 16-17 June 2017, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)012-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)012-e).

12 A statement by EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, and European Commissioner for Neighbourhood Policy and Enlargement Negotiations, Johannes Hahn, on the amendments to the electoral legislation in the Republic of Moldova, https://eeas.europa.eu/headquarters/headquarters-homepage/30221/statement-hrvp-mogherini-and-commissioner-hahn-amendments-electoral-legislation-republic_en.

13 Data on external trade activity of the Republic of Moldova for 2016, issued by the Moldovan Statistical Bureau, <http://www.statistica.md/newsview.php?l=ro&idc=168&id=5526>.

14 Annual Report on Foreign Aid to Moldova in 2016, State Chancellery, June 2017, http://amp.gov.md/portal/sites/default/files/inline/oda_raport_2016.pdf (available in Romanian only).

The main achievements were: the adoption of a package of laws on integrity (aimed to strengthen the system of assets declaration), the adoption of a new law on the prosecution service, the launch of public administration reform, the adoption of the law on courts reorganisation (to optimise the courts' territorial map), the adoption of new legislation on electricity and natural gas (transposing the Third Energy Package provisions),¹⁵ the adoption of legislative amendments strengthening the independence of the National Bank, and the relatively transparent and inclusive process of selection of National Bank Governor.

However, shortly after reporting their approval to the EU, the implementation of the most sensitive initiatives slowed down.

No progress was recorded in the improvement of the media environment, although some positive legislative changes regarding the transparency of media ownership and limitation of media concentration were adopted in 2015 and 2016. The disclosure of media owners, with the exception of those registered offshore, confirmed that over 80% of the media market was owned by a handful of politicians and people affiliated to political parties.¹⁶ Pursuant to provisions introduced by the parliamentary majority, the limitation of media concentration ownership will be possible only after the expiry of broadcasting licenses in seven years' time.

The audiovisual sector continued to be regulated by an outdated legislative framework, while the new Broadcasting Code, drafted back in 2011, remained blocked in the parliament after the first reading in July 2016. The monopolisation of the advertising market and the tightening of access to information in 2016 contributed significantly to the further deterioration of media freedom and pluralism.

Another questionable reform related to the transparency of political parties and election campaign financing. Although a new law on party and campaign funding was adopted

15 The EU's Third Energy Package is designed to open up gas and electricity markets. Core elements include ownership unbundling – the separation of companies' generation and sales operations from their transmission networks – and the establishment of a national regulatory authority.

16 "Proprietarii televiziunilor din Moldova: Miliardari americani, afaceriști locali, bănco din Rusia și milionari de la Tiraspol" (Moldovan Television Owners: American Billionaires, Local Businesses, Russian Banks and Tiraspol Millionaires), Mold-Street, 14 November 2015, <https://www.mold-street.com/?go=news&n=4266>.

in 2015 in order to address some of the previous recommendations by international organisations, the most important recommendations proposed by GRECO (a ceiling on private donations and donations in cash, reporting requirements, and sanctioning mechanism) were implemented in a selective manner so as to perpetuate the practice of financing political parties from obscure sources, as the 2016 presidential elections confirmed.¹⁷ On the positive side, the direct public funding of political parties was introduced in 2016 (whereby money will be allocated in-between elections based on past results in local and parliamentary elections).

ANTI-CORRUPTION AND JUSTICE SECTOR REFORMS STILL FALL SHORT

In 2016 the legislative framework for fighting corruption was significantly improved, when a new Law on the prosecution service and a package of laws on integrity were passed. The law on the prosecution service aimed to strengthen the independence of the General Prosecutor, generally perceived as politically subordinated, and to increase the effectiveness of the Anti-Corruption Prosecution Office in investigating high-level corruption.

A series of questionable appointments in the prosecution service shortly after the law came into force, including the appointment of a new General Prosecutor, undermined the very purpose of the reform, according to investigative media and civil society.¹⁸ The parliament's failure to limit the mandate of anti-corruption prosecutors solely to high-level corruption cases resulted in their overload with petty corruption cases, accounting for 75% of all their cases. "In 2015-2016, a number of high-profile corruption cases were initiated.

However, the population perceives these reforms as in name only, with state institutions

17 The Group of States against Corruption (GRECO) was established in 1999 by the Council of Europe to monitor states' compliance with the organisation's anti-corruption standards. www.coe.int/greco

18 Statement of disapproval of the manner in which the General Prosecutor was appointed, Association for Efficient and Responsible Governance (AGER), 13 December 2016, <http://www.ager.md/en/pagini/declaration-we-dissapprove-manner-appointing-general-prosecutor>.

being corrupt and the majority of high profile cases being politically motivated."¹⁹

The purpose of the legislative package on integrity was to improve the effectiveness of the existing assets declaration system and strengthen the independence of the controlling institution – the National Integrity Authority. But the institutional reform launched in August 2016 subsequently stalled and created an institutional vacuum, thus rendering impossible the verification of asset declarations.

An attempt by the ruling coalition to obstruct the efficiency of the integrity package and previous anti-money laundering efforts was made in December 2016. The coalition pushed through parliament in a speedy and non-transparent way the first reading of a bill on capital liberalisation and fiscal stimulus that would have legalised previously undeclared assets and granted an amnesty to all public servants for hiding their assets. The attempt was denounced by civil society and the donor community, and was not further pursued by the parliament.²⁰

The justice sector reform continued to be implemented with reasonable progress following the approval of overdue legislation (the law on the reorganisation of the courts) and the improvement of some technical aspects, such as audio-recordings of court hearings, random assignment of cases functioning in all courts, increased number of court staff, and higher salaries for judges and court staff. However, fundamental issues in the justice sector remained unsolved, despite the optimistic official reporting on the accomplishment of almost 90% of the Justice Sector Reform Strategy by 2016.²¹

These relate to the persistence of non-transparent and non-merit-based selection and promotion practices for judges, which to a significant extent are perpetuated by the

19 *Moldova: Investigating High-Level Corruption – Progress or Illusion?*, Vladislav Gribincea, Legal Resources Centre from Moldova/Soros Foundation-Moldova, January 2017, <http://crjm.org/wp-content/uploads/2017/07/2017-01-27-Gribincea-corruption-machetat.pdf>.

20 *Position Paper on the Legislative Initiative Regarding the Tax and Capital Amnesty*, 19 December 2016, http://crjm.org/wp-content/uploads/2016/12/2016-12-19-NP_Amnistia-fisc-capital_FINAL_en.pdf

21 Interview with the Minister of Justice, Valdimir Cebotari, on results achieved in 2016, *Tribuna*, 20 February 2017, <http://tribuna.md/2017/02/20/interviu-vladimir-cebotari-in-pofida-tutoror-dificultatilor-intampinate-pot-sa-zic-ca-2016-a-fost-si-un-an-al-reusitei/>.

Superior Council of Magistracy, which itself does not meet standards of transparency and public accountability. A controversial 2016 legislative amendment on court hearings led to a tightening of the courts' openness, and the closing of court hearings in cases of high prominence, e.g. the case of former prime minister Filat.

A criminal investigation initiated in 2016 against a judge for the allegedly illegal interpretation of the provisions of a law on a politically sensitive matter (organisation of referendums) reflected a new, dangerous pattern of political interference vis-à-vis the judiciary. Against this background, it is no surprise that public trust in the judiciary significantly eroded despite the reform strategy. The level of public mistrust dropped to almost 90% by the end of 2016, down from 67% in 2011, when the strategy was launched.²²

However, Moldova was still unable to fully tap its export potential to the EU, due to the undeveloped quality of its infrastructure and shortfalls in the harmonisation of national legislation on food safety.

At the same time, as confirmed by Moldova's persistently poor scoring in the World Bank's Doing Business index, the predominant perception among small and medium-sized enterprises (SMEs) was that the business environment continued to deteriorate in 2015-2016. Administrative corruption, a burdensome regulatory environment, fragility of the banking sector, and the weak rule of law all featured among the key problems weakening the business climate. Moldova scores the worst of all six EaP countries in the Doing Business ranking.²⁴

DCFTA BRINGS FIRST MODEST RESULTS

Although the Association Agreement fully entered into force on 1 July 2016, substantial parts of the agreement started to be applied from September 2014, with relatively positive progress, especially in 2016. The first two years of the implementation of the Deep and Comprehensive Free Trade Area (DCFTA) agreement were negatively affected by the 2015 political instability and by regional economic constraints (the conflict in Eastern Ukraine, the Russian embargo on Moldova's agricultural production, and sanctions and trade restrictions between the EU and Russia).

As a result, the value of Moldova's exports to the EU decreased by 2.3% in 2015. The process reversed in 2016, when exports to the EU, mainly agricultural production, surpassed the level of 2014 by 6.9%.²³

²² Barometer of Public Opinion, IPP, <http://bop.ipp.md/>

²³ Based on annual series of external trade by groups of countries, provided by the Moldovan Bureau of Statistics, http://statbank.statistica.md/pxweb/pxweb/en/40%20Statistica%20economica/40%20Statistica%20economica__21%20EXT_EXT010__serii%20anuale/EXT010100.px/table/tableViewLayout1/?rxid=b2ff27d7-0b96-43c9-934b-42e1a2a9a774.

²⁴ World Bank *Doing Business Report 2017*, <http://www.doingbusiness.org/>

MOLDOVA

LINKAGE



INTERNATIONAL SECURITY, POLITICAL
DIALOGUE AND CO-OPERATION



0.71

SECTORAL CO-OPERATION
AND TRADE FLOWS



0.61

CITIZENS IN EUROPE



0.72

APPROXIMATION



DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)



0.71

EU INTEGRATION AND CONVERGENCE



0.69

SUSTAINABLE DEVELOPMENT



0.78

MOLDOVA



GEORGIA

TOP CHALLENGES FOR 2018

- Constitutional checks and balances must be preserved, and the application of the constitutional changes introduced in 2017 must preserve a separation of powers and serve the country's further democratic development;
- The conduct of the presidential elections in 2018 should be free and fair (including equal air-time in public and private media);
- The authorities and media should make a priority of raising independent editorial standards in the media, and the government should formulate and implement a clear strategy to pre-empt and counter Kremlin propaganda;
- The Association Agreement between the EU and Georgia should be implemented in full and in a transparent, accountable manner.

DEMOCRATIC PROGRESS, BUT POLARISATION OF POLITICAL FORCES

Throughout 2015-2016, Georgia's democratic development underwent positive development overall, although there in numerous areas progress stalled or in some cases there was even a regression. The country carried out significant reforms, as envisaged under the EU-Georgia Association Agenda for 2014-2016, although there were shortfalls in progress in the justice sector, media, education, labour rights, and the environment.

The October 2016 parliamentary elections were the most significant event of 2016. According to the assessment of local and international observers, the October 2016 elections were competitive and well administered, and fundamental freedoms were generally respected. The pre-election period afforded the possibility to all parties to offer their views and opinions to voters in a pluralistic environment, without massive use of the state institution's administrative resources in favour of the ruling party.

However, there were a number of administrative irregularities, including voter intimidation, and violent incidents in the pre-election period, most notably the bombing of the car of a senior United National Movement (UNM) official only two days before the election, and attacks on a few polling stations on election day. However, those incidents did not have any direct impact on the election's integrity.¹

As a result of the elections, the ruling Georgian Dream-Democratic Georgia party (GD-DG) gained 115 seats in the 150-member Parliament, amounting to a majority enabling them to change the constitution unilaterally. The main opposition UNM (who held power under the leadership of the former President Mikheil Saakashvili) emerged with 27 MPs and the Alliance of Patriots of Georgia took six seats.

The scale of the victory of GD-DG in the elections had a drastic impact on the representation of opposition parties oriented towards European integration and their

¹ *Georgia's Parliamentary Election, October 8 and October 30, 2016. The Final Report of IRI's Long-Term Observation Mission*, December 2016, http://www.iri.org/sites/default/files/iri_georgia_final_election_report.pdf

leadership in the Parliament. The Republican Party and the Free Democrats failed to pass the 5% threshold for representation. After the elections, the former Speaker of Parliament David Usupashvili and former Minister of Defence Tinatin Khidasheli both left the Republican Party, while former Minister of Defence Irakli Alasania left the Free Democrats, the party he had chaired since its establishment in 2011. All stated that they were leaving active politics.

Furthermore, after the elections, divisions heightened within the UNM, resulting in the departure from UNM to form a new party, European Georgia, by some senior figures from the leadership in January 2017. European Georgia is led by Davit Bakradze, a former Parliamentary Speaker, and Giorgi Ugulava, a former mayor of Tbilisi. In total, 21 MPs left UNM to join European Georgia, leaving UNM with a mere six seats in Parliament.

Ahead of the 2016 parliamentary elections, civil society organisations, political parties and other stakeholders were actively advocating for a reform of the electoral system, including the replacement of the mix of proportional representation and single mandate (majoritarian) electoral districts with a fully proportional system to safeguard the plurality of representation. In line with a ruling of the Constitutional Court, changes were introduced to the territorial boundaries of majoritarian election districts to ensure that the difference between the numbers of voters among the constituencies did not exceed 15%. In addition, the 30% election threshold for electing a majoritarian MP was increased to 50%+1. Changes were also introduced to the rules about voting at special polling stations and the presence of police outside polling stations for security purposes.

The authorities did not set up a working group to discuss changes to the electoral legislation with participation of all stakeholders, and CSO recommendations on the need to reform the composition of election administration were not taken into consideration. Similarly, the Parliament did not support a proposed temporary measure to introduce mandatory gender quotas to increase women's participation in politics.

In June 2017, four months ahead of the 21 October municipal elections, the government introduced amendments to local government

legislation that, among other changes, would merge seven of the 14 self-governing cities with their surrounding communities, and restore the territorial arrangement that existed prior to 2014. According to independent observers, as well as opposition parties, the process by which the reforms were drafted was rushed, lacked transparency, and was not sufficiently inclusive. Around 150 civil society organisations signed a letter calling on the government to preserve the self-governing cities.

After the Parliament passed the bill to merge the municipalities, on 26 July 2017, Parliament overrode President Giorgi Margvelashvili's veto of the measure. As a result, after the local government elections of 2017, "fourteen self-governing territories will be merged into seven and only five cities will maintain their self-governing status. This decision substantially limits the self-governing right for seven cities as well as for villages in self-governing communities."²

Xenophobic, ethno-nationalist, homophobic, and ultra-conservative rhetoric began to emerge in the run-up to the 2017 municipal elections, and on 14 July more than 2,000 protesters held a "March of the Georgians" anti-immigration rally in Tbilisi. Participants included a former deputy state minister from Georgian Dream and a current MP from the Alliance of Patriots of Georgia. In addition to launching anti-LGBTQI slurs, the march's organisers demanded the deportation of illegal immigrants, the toughening of immigration laws, restrictions on residence permits for foreigners, and a ban on foreign funding to CSOs. One of the populist sentiments also reflected in the ruling party's draft constitutional amendments was the definition of marriage as between a man and a woman; another was the prohibition of the sale of land to foreigners.

Although Georgia is one of the frontrunners, with Moldova, among the six EaP countries on democracy and human rights, the country's position in the **Approximation** section of the Index 2015-2016, in fourth place behind Ukraine, Moldova and Armenia, reflects its relatively weak sustainable development scores (including the weakest poverty and health indicators among the six EaP countries),

² Evaluation of the Pre-Election Environment For the 2017 Local Self-Government Elections, International Society for Fair Elections and Democracy (ISFED), August 2017, https://www.scribd.com/document/357596641/ISFED-Evaluation-of-the-Pre-Election-Environment#from_embed

but also weak performance on energy policy convergence and energy efficiency.

In contrast, in the **Linkage** section of the Index 2015-2016, Georgia is placed second, close to the frontrunner, Moldova, among the EaP countries. The EU is Georgia's main trading partner, and Georgia continues to be engaged in deep political dialogue with the EU, combined with a high level of engagement and exchange in science and education.

MEDIA FREEDOMS MARRED BY CONCERNS OVER EDITORIAL INDEPENDENCE

According to both Freedom House and Reporters Without Borders, Georgia was the EaP frontrunner on media freedom in 2016, although it continues to lag far behind EU countries. Reporters without Borders noted some improvements in 2015-2016, including the transparency of media ownership transparency, pluralism in satellite TV offerings, and the overhaul of the broadcasting regulatory authority. It also noted that while violence against journalists is less frequent, threats are often reported, and media owners still interfere in editorial content.³

The ownership of the most watched TV channel, Rustavi-2, became a test case both for media freedom and for the independence of the judiciary. In late 2015, a Georgian court ruled in favour of a plaintiff who claimed ownership of the station, despite his relatively brief claim to the station and a battery of legal inconsistencies noted by Georgian watchdog organisations. The court ruling also negatively affected the functioning of Rustavi-2 due to the lien granted to the plaintiff on the Rustavi-2 property.

In 2016, an appeals court upheld the decision, and the Supreme Court accepted the case for review. On 2 March 2017, the Supreme Court ruled that Rustavi-2 TV should be returned to former co-owner Kibar Khalvashi. On 3 March the European Court of Human Rights (ECHR) called upon the Supreme Court to temporarily

suspend the ruling that would have handed the independent television station to an owner with alleged ties to the government. "Early on, the State Department noted that 'actions that give the appearance of...constricting media freedoms or compromising...media pluralism are, frankly, disturbing'.

In the wake of the court appointment of temporary managers, Georgia's friends moved from concern to outright condemnation. The most critical was OSCE Representative on Freedom of the Media Dona Mijatovic, who blasted the court's decision to replace management as an attempt 'to unduly influence' Rustavi-2's editorial policy, something that is 'nothing short of the abuse of the rule of law and democratic foundations in a society'.⁴

The ongoing dispute around the ownership of Rustavi-2 was underway when at the end of 2016, TV Imedi bought two other big TV stations – GDS and Maestro – to create a single media holding of three channels with an editorial position close to the ruling Georgian Dream party.

At the end of 2016, Vasil Maglaperidze, the former General producer of GDS TV (a station owned by the family of Bidzina Ivanishvili until the merger with Imedi) was appointed the new General Director of the Georgian Public Broadcaster (GPB). In January 2017, the new team announced that all TV programmes, except daily news, would be suspended until July 2017 to enable reforms to be introduced.

After public protests at a move that would have reduced media pluralism during the forthcoming local elections and decisions on constitutional reforms, the decision was changed. However, many socio-economical programmes were cut, including programmes prepared by Radio Free Europe/Radio Liberty.⁵

In July 2017, GPB's management – without proper consultation with its own board – submitted legislative amendments to Parliament which, according to CSOs, "significantly reduces GPB's transparency and openness, increases the powers of GPB

³ *Freedom of the Press: 2016 Index*, <https://freedomhouse.org/report/freedom-press-2016/table-country-scores-fotp-2016>

Press Freedom Index: 2016, Reporters Without Borders, <https://rsf.org/en/ranking>

⁴ *The Curious Case of Rustavi-2: Protecting Media Freedom and the Rule of Law in Georgia*, Cory Welt, November 2015, PONARS Eurasia, <http://www.ponarseurasia.org/memo/curious-case-rustavi-2-georgia>

⁵ *GPB Director General: RFE/RL Program Shutdown Part of TV 'Renewal'*, civil.ge, 19 June 2017, <http://civil.ge/eng/article.php?id=30202>

management, weakens the Board of Trustees, creates risk of sham deals, and deteriorates employee protection mechanisms”.⁶

PROPAGANDA, THE ‘FAILING EU’, AND SAME-SEX MARRIAGE

The challenge of increased Russian information propaganda became more intense. The propaganda is implemented by number of non-governmental groups and researchers, directly supported by the Russian government, as well as by pro-Russian political parties and some clerics from the Georgian Orthodox Church. In 2015-2016, a number of projects were implemented by the government and CSOs directed towards raising awareness among representatives of the Georgian Orthodox Church about the EU-Georgia Association Agreement. The visits of the Georgian clergy to Brussels to hold meetings with EU officials, as well as NATO headquarters/officials in November 2016, supported by the government, played an important role in reducing the church’s criticisms of western countries and NATO.⁷

However, religious and cultural ties continue to represent one of the most effective tools of Russian propaganda, as Russia positions itself as the guardian of “traditional Christian” values. The propaganda is characterised by unprecedented scale and extensive use of modern technology. The value-based propaganda was pervasive during the 2016 parliamentary elections and continued during the 2017 local elections.

Kremlin propaganda tries to weaken Georgia’s foreign policy dimensions, including its ambitions of integration into Euro-Atlantic structures, by presenting both as futile and worthless. It tries to use current challenges

6 CSOs Concerned over GPB-Related Developments, *civil.ge*, 4 November 2017, <http://civil.ge/eng/article.php?id=30605>
7 Russian Influence on Georgian NGOs and Media, Nata Dzvelishvili and Tazo Kupreishvili, *damoukidebloba.com*, June 2015, www.idfi.ge/public/upload/russianimpactongeorgianmediadaNGO.pdf
The Russian Information War and Propaganda Narratives in the European Union and the EU’s Eastern Partnership Countries, L. Makhashvili, *International Journal of Social Science and Humanity*, Vol. 7, No. 5, May 2017, <http://www.ijssh.org/vol7/840-HF0035.pdf>

facing the EU problems – such as Brexit and refugees – to portray the EU as a failing project and to question the usefulness of EU-Georgia relations. In terms of NATO, the narrative is that it is impossible for Georgia to become a part of the Alliance.

One of the most widely spread propaganda messages engineered by the Kremlin was that in exchange for approximation with the EU’s rules and standards, the EU (as a requirement of the Association Agreement or a visa-free regime with the EU) would require the legalisation of same-sex marriages. As a result of the Kremlin propaganda, in late 2015, the then Prime Minister Irakli Garibashvili announced that he would introduce into the constitution, the definition of marriage as “a union between man and woman”. It was argued by the ruling party that by doing so it would counter “Russia’s soft power”.

The Parliament in 2016 did not support this initiative. However, the draft of the new constitution, published for public review in April 2017, stated that marriage is “the union of a woman and a man for the purpose of starting a family”, a formulation that would jeopardise the constitutional rights of LGBT Georgians. The formulation remained in the text approved in the final reading in Parliament on 26 September 2017.⁸

DELAYS ON ROAD TO INDEPENDENT JUDICIARY

According to a coalition of CSOs, it is recognised that “since 2012 the number of court decisions in favour of the state has significantly decreased in criminal as well as other types of cases and, although major changes have been implemented in the area of transparency of court hearings, judicial independence still remains problematic. These challenges are particularly evident in the proceedings of cases with political context.”⁹

8 *Key Points of Newly Adopted Constitution*, *civil.ge*, 27 September 2017, <http://civil.ge/eng/article.php?id=30474>
9 *The Coalition Calls on the Government to Start Substantial Reforms in the Court System*, Transparency International Georgia/Coalition for an Independent and Transparent Judiciary, 24 March 2017, <http://www.transparency.ge/en/post/general-announcement/coalition-calls-government-start-substantial-reforms-court-system>

Examples of politically connected cases included the so-called “Case of Cables”,¹⁰ the Rustavi-2 case, or the use of pre-trial detention in the case of former Tbilisi Mayor Gigi Ugulava. An illustration of this trend was the case of the Tbilisi City Court Chair, Mamuka Akhvediani, who was dismissed in February 2016, shortly after he made critical statements about the state of the judiciary.¹¹ These cases highlight the challenges to the internal independence of the court system.

After the Constitutional Court made a number of decisions in 2016 opposing the political interests of the government, a number of changes followed in the legislation regulating the Constitutional Court, “jeopardising the fundamental values of modern democratic state such as the rule of law, recognition and protection of human rights, separation of powers and providing adequate, effective and impartial constitutional justice”.¹²

The Association Agreement, as well as the EU-Georgia Association Agenda, requires that Georgia’s judicial reform should aim at “strengthening the independence, efficiency, impartiality and professionalism of the judiciary as well as independence from political or other undue interference”.¹³ However, the Judicial Reform Strategy – with the clear benchmarks and priorities as required by the Association Agreement – has not been elaborated. The process of implementing the reforms demonstrated that the Government lacks the political will to carry out comprehensive and coherent changes in the court system.

10 Five Defence Ministry and army personnel were arrested on charges around an alleged sham tender in October 2014. The so-called “cable case” led to a split within the Georgian Dream (GD) ruling coalition and the firing of Defence Minister Irakli Alasania. As a result, Alasania’s Free Democrats left the ruling coalition in November 2014. The five men spent eight months in pre-trial detention before being released. ‘Cable Case’ MoD, General Staff Officials Reinstated, civil.ge, 13 August 2015, <http://www.civil.ge/eng/article.php?id=28498>

11 *The High Council of Justice Dismissed Mamuka Akhvediani in Violation of the Law*, Coalition for an Independent and Transparent Judiciary, 23 February 2016, <http://www.transparency.ge/en/post/general-announcement/high-council-justice-dismissed-mamuka-akhvediani-violation-law>

12 The new legislation followed the delivery of specific judgements by the Court, oriented towards the protection of human rights, which were unacceptable to the Government. See the statement of the Coalition for an Independent and Transparent Judiciary: http://coalition.ge/index.php?article_id=71&clang=1

13 *Joint Staff Working Document: Association Implementation Report on Georgia*, European Commission and European External Action Service, 25 November 2016, https://eeas.europa.eu/sites/eeas/files/1_en_jswd_georgia.pdf

While the initial amendments were positively evaluated by the Venice Commission in 2014,¹⁴ by the time the law was adopted at the end of 2016, it had been substantially amended, resulting in the weakening of some of the positive initiatives. In the meantime, the delay in reforms allowed the High Council of Justice to appoint dozens of judges in a process that lacked transparency.

The introduction of an electronic system of case distribution in courts was postponed. The reform was preceded by lengthy negotiations “behind closed doors”, including during the final, third hearing of the law. Despite several important and progressive changes, the final version of the legislative package does not reflect the majority of substantive recommendations submitted by local CSOs and the Venice Commission. In particular, the legislative package no longer envisages the election of court presidents by judges and contains negative changes regarding the composition of the High Council of Justice. Despite the fact that President Margvelashvili vetoed the law in January 2017, his veto was overturned by the ruling majority in the Parliament.

The judicial reform failed to address fundamental issues, including the ambiguity around the disciplinary liability of judges, the lack of norms regulating the activities of the High Council of Justice, the flawed rules for the election of court presidents, and other important issues that civil society representatives have raised for many years. It will be essential to recognise these challenges and implement prompt and consistent reforms so as to create meaningful guarantees for the independence of the judiciary. The “third wave” of judicial reform has suffered from delays and interruptions, while the introduction of a three-year probation period in the appointment of judges holds significant risks for the independence of the judiciary.¹⁵

14 *Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Law on Amendments to the Organic Law on General Courts of Georgia*, Venice Commission, Council of Europe, Rome, 14 October 2014, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)031-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)031-e)

15 *The Judicial System: Past Reforms and Future Perspectives*, Coalition for an Independent and Transparent Judiciary, 2017, http://coalition.ge/index.php?article_id=150&clang=1

LACK OF CONTROLS ON SURVEILLANCE BY SECURITY SERVICES

The adoption of a Human Rights Strategy in June 2014 and the subsequent Human Rights Action Plans for 2014-2015 and 2016-2017 were important developments. The Strategy and Action Plans represent Georgia's key human rights policy documents, and together are designed to serve as a roadmap for the human rights-related work of Georgia's state agencies. The inter-agency Human Rights Council, which is chaired by the Prime Minister and supported by a Secretariat, is responsible for implementation of the Action Plan, which assigns concrete goals to relevant line ministries and responsible bodies.

The new Juvenile Justice Code was adopted based on the Action Plan in 2015. There were a number of deficiencies in its implementation, since it was necessary to strengthen the place of human rights in all the agencies involved, including police and social workers, for instance the facts concerning the mistreatment of children in orphanages, described in the special report of the Public Defender (Ombudsman) for 2015, was not met with an adequate response.

The right to privacy remains a critical issue in Georgia. The introduction of the Law on Personal Data Protection, and the appointment of a Personal Data Protection Inspector, was a step in the right direction. Nevertheless, the recent practice indicates a need for radical reforms to ensure the prompt and effective investigation and prosecution of violations. Since 31 March 2015, a two-key system has been in place, according to which law enforcement agencies have to obtain electronic permission from the Personal Data Protection Inspector, as well as a court order, prior to conducting surveillance. However, it turned out that the two-key system did not eradicate the risks of illegal secret surveillance, as security services still possess the technical capacity to carry out surveillance and counterintelligence activities, bypassing the courts and Personal Data Protection Inspector. The Human Rights Education and Monitoring Center (EMC), a Tbilisi-based CSO, filed a lawsuit in the Constitutional Court against these legal provisions on 16 November 2015.

In April 2016, the Constitutional Court ruled that there was no control mechanism

in legislation regulating real-time access to monitor internet traffic. The court also ruled that the technical access of the State Security Service to telecom operators' networks, allowing unfettered monitoring of communication and collection of communications metadata, was unconstitutional. The date of 31 March 2017 was set by the court as a deadline "for preparing fundamental legislative amendments and ensuring the institutional and technical base for a new system".¹⁶

After the October 2016 parliamentary elections, Georgian Dream secured a constitutional majority, giving the government the scope to implement fundamental reform of secret surveillance. "This reform is however only possible if law-enforcement agencies limit their powers and an effective system for their oversight is established."¹⁷

The Parliament adopted a new surveillance bill on 1 March 2017, which established a special agency for conducting surveillance operations, and on 30 March 2017 it overrode the President's veto of the law. In response, on 11 April, the This Affects You campaign, a group of CSOs campaigning against illegal surveillance, filed a lawsuit against the bill in the Constitutional Court, arguing that the bill "does not guarantee the right to privacy and the Constitution is still violated. It also increases the risks of personal data disclosure."¹⁸

SWIFT TRADE LIBERALISATION, DELAYED VISA LIBERALISATION

Since the entry into force of the Association Agreement with the EU, including the Deep and Comprehensive Free Trade Area, there have been important developments related to trade. However, while Ukraine and Moldova have put in place both relevant anti-dumping legislation and institutions, Georgia implements no anti-dumping policies at all. While in Moldova and

¹⁶ *Regulating Secret Surveillance in Georgia (April-December, 2016)*, Teona Turashvili and Tamar Iakobidze, Institute for Development of Freedom of Information (IDFI), 23 January 2017, https://idfi.ge/en/regulating_secret_surveillance_in_georgia

¹⁷ *ibid*

¹⁸ *Campaign Group Files Lawsuit against Surveillance Bill in Constitutional Court*, [civil.ge](http://civil.ge/eng/article.php?id=30013), 11 April 2017, <http://civil.ge/eng/article.php?id=30013>

Ukraine, tariff liberalisation for EU exports has been gradual, Georgia has emphasized a policy of full liberalisation of trade, and as a result it dropped all tariffs on EU exports to Georgia upon the launch of the DCFTA in September 2014. Moreover, Georgia is the frontrunner among the EaP countries when it comes to contract enforcement, payment of taxes, and customs procedures, according to the World Bank Doing Business report.¹⁹

Georgia's largest trade partner is the EU, followed by Turkey. Georgia in turn receives more investment from the European Bank for Reconstruction and Development (EBRD) and more loans from the European Investment Bank (EIB) on a per capita basis than any other EaP country. Georgia is one of only two EaP countries (the other is Moldova) to apply the Common Aviation Area Agreements (CAAA) with the EU.

However, when it comes to attainment of the UN sustainable development goals (SDGs), Georgia trails far behind EU countries, not least given its low starting point in terms of key indicators. With 8.3% of the population living on less than US\$1.90 per day, Georgia records the weakest indicators on health and poverty among the six EaP countries. Another worrying factor has been environmental deterioration, including the growing rate of soil erosion, and air and water pollution. Public consultations have been lacking on environmental policy, and Georgia's National Council on Sustainable Development was disbanded, leaving the decision-making power concerning implementation of the SDGs centralised at the level of the Cabinet of Ministers.

The one most actively discussed issue concerning Georgia-EU relations during 2015-2016 was visa liberalisation. The Visa Liberalisation Dialogue concluded on 18 December 2015 when the European Commission adopted its fourth and final progress report, confirming that Georgia had succeeded in meeting all the benchmarks under the Visa Liberalisation Action Plan. Consequently, on 9 March 2016 the European Commission proposed to the EU Council and the European Parliament to lift visa requirements for citizens of Georgia for travel to the Schengen area. However, due to a number of internal EU procedures and internal issues

(including Brexit and the decision to introduce a visa-suspension mechanism), the visa-free regime did not enter into force until 28 March 2017.

LOW LEVEL OF DIALOGUE WITH CIVIL SOCIETY

The Georgian government's engagement with civil society has been uneven. In areas where co-operation is substantially influenced by donors such as the US Agency for International Development (USAID) or the EU – namely streamlined processes like the Open Government Partnership initiative or European integration – a strengthening of the involvement of CSOs is evident. In addition, the Human Rights National Strategy and Action Plans were developed with the participation of both local and international CSOs and the Public Defender's office. However, there were a number of areas where dialogue remained weak and sporadic, or even non-existent. These include sectors such as energy, environmental and social issues. In addition, the existence of fora for CSOs to voice their perspectives – whether in the form of formal participation mechanisms or in the media – does not result in action from the side of the government.

In general, there was no progress in terms of further engagement of CSOs by the government in 2015-2016. According to Freedom House, the engagement by government had been both more thorough and consistent in 2013-2014, for instance the first wave of judicial reforms in 2013 was based largely on studies produced by a CSO coalition, while in 2015-2016 the government has barely even acknowledged the concerns voiced by CSOs.²⁰

There were also instances of public statements attacking watchdog CSOs, for instance in April 2015, former Prime Minister Bidzina Ivanishvili strongly criticised the leaders of Transparency International (TI) Georgia and the Georgian Young Lawyers Association (GYLA).²¹ There were a number of unsubstantiated criticisms

²⁰ *Nations in Transit 2015 and 2016*, Freedom House, <https://freedomhouse.org/report-types/nations-transit>

²¹ *Georgia: 'Analyst-in-Chief' Bidzina Ivanishvili Bashes Government-Critics*, EurasiaNet.org, 28 April 2015, <http://www.eurasianet.org/node/73211>

¹⁹ <http://www.doingbusiness.org/rankings>

from Georgian Dream politicians as well as from other parties, accusing CSOs of pursuing a political agenda or being the agents of the West.

On 29 May 2017, Afgan Mukhtarli, an Azerbaijani investigative journalist was kidnapped in Tbilisi, and illegally brought across the border to Azerbaijan, re-appearing less than 24 hours later in the custody of border police, where he was arrested on trumped up charges. Despite numerous calls to the Georgian government to promptly investigate the kidnapping, no report on the investigations was made public.²²

In July 2017, the Ministry of Refugees refused to grant refugee status to Mustafa Emre Çabuk, a manager at the Private Demirel College, a school linked to the US-based Turkish cleric Fethullah Gülen, alleged by the Turkish government to have been the mastermind behind the attempted coup in Turkey on 15 July 2016. Çabuk was detained by the authorities in Tbilisi at Turkey's request. The licenses of two schools associated with Gülen were revoked by Georgia's Ministry of Education during 2017, after the Turkish Consul in Batumi claimed that the school "raises terrorists".²³

CONSTITUTIONAL REFORM AND CONSOLIDATION OF POWER

With a view to formulating constitutional reforms, the State Constitutional Commission was established on 23 December 2016, comprising 73 members, including representatives of government, judiciary, other constitutional bodies, parliamentary and non-parliamentary political parties, several CSOs and experts. Business associations, trade unions and CSOs working on environmental issues were not invited.

During the process, all the CSOs and also all political parties, except GD, dropped out of the process because many of their key concerns were not taken into account. In addition, the

²² *Public Defender on Shortcomings in Mukhtarli Case Proceedings*, civil.ge, 29 November 2017, <http://civil.ge/eng/article.php?id=30681>

²³ *Tbilisi Denies Refugee Status for Arrested Turkish Citizen*, civil.ge, 9 July 2017, <http://civil.ge/eng/article.php?id=30255>

President refused to join the commission from the outset. The commission made a pledge that it would incorporate into the text of the constitutional amendments all comments raised by the Venice Commission and all relevant comments collected during public hearings.

There were a number of positive reforms proposed, including that "the constitutional bodies within their mandate commit to take all necessary actions to ensure the full integration of Georgia into the EU and NATO". The text also stressed provisions on substantive gender equality, the right of access to the internet, and guarantees of constitutional independence for the Public Broadcaster.

The proposed amendments also defined the Prosecutor's Office as a body fully independent from the executive authority and, to strengthen the judiciary, the fundamental direction of the work of the High Council of Justice was defined – ensuring the independence and effectiveness of the courts – and that its rules of conduct should be determined by an organic law. The parliamentary oversight mechanism would be enhanced through the introduction of a lower quorum (one-third of the total number of MPs) for the establishment of an investigative commission.

However, during the preparation of the draft text, the chair of the State Constitutional Commission – Parliamentary Speaker Irakli Kobakhidze – accused President Margvelashvili of disrupting the reform process, and threatened to use GD's supermajority to change the presidential election process to a parliamentary vote, already from 2018.²⁴

On 19 June 2017, the Venice Commission welcomed a number of changes, including the full transfer to proportional representation for parliamentary elections, but expressed a number of concerns and requested the Parliament to ensure that a wide public consensus was reached over the constitution. One of the major concerns was the coupling of the introduction of a fully proportional system with the abolition of election blocs and the continuation of the 5% threshold for parties to gain seats in Parliament. Concern was also raised by the proposal that the undistributed portion of votes for parties that fail to pass

²⁴ *President, Parliamentary Chairman Clash over Constitution Reform*, civil.ge, 29 April 2017, <http://civil.ge/eng/article.php?id=30063>

the threshold would be allocated as a bonus to the winning party – a step that could undermine political pluralism and further the concentration of power in the hands of a single party.

The Venice Commission expressed concerns about what was described as the transformation of the principle “no taxation without representation” into “no taxation without referendum”, whereby the government can initiate a referendum on taxation, but the Parliament would be excluded from the process. A recommendation of the Venice Commission was to change the proposed ten-year tenure of Supreme Court judges to life tenure, while other concerns were raised over provisions on the right to marriage, right to equality, freedom of belief and conscience, and freedom of association and assembly.²⁵

Although the constitutional reforms were passed, overriding the presidential veto, on 2 November 2017, the ruling GD subsequently initiated a new round of amendments in the Parliament to incorporate the Venice Commission recommendations. According to the new amendments submitted in Parliament, parties would be allowed to form election blocs for the next parliamentary elections in 2020, and the so-called bonus system would be scrapped.

The amendments were passed at a first reading on 14 December 2017, and the third and final reading was envisaged for spring 2018. President Margvelashvili had called for additional changes, including the transition to a fully proportional electoral system by the next parliamentary elections in 2020 (instead of 2024 as proposed by Georgian Dream) and maintaining direct presidential elections. The new constitution will enter into force following the 2018 presidential election.²⁶

²⁵ Georgia. *Opinion on the draft Revised Constitution*, Venice Commission, 19 June 2017, http://civil.ge//files/files/2017/Venice_Commission_Opinion_June_2017.pdf

²⁶ *Parliament Initiates New Constitutional Changes*, civil.ge, 3 November 2017, <http://civil.ge/eng/article.php?id=30603>

GEORGIA

LINKAGE



APPROXIMATION



INTERNATIONAL SECURITY, POLITICAL
DIALOGUE AND CO-OPERATION



0.76

DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)



0.71

SECTORAL CO-OPERATION
AND TRADE FLOWS



0.56

EU INTEGRATION AND CONVERGENCE



0.66

CITIZENS IN EUROPE



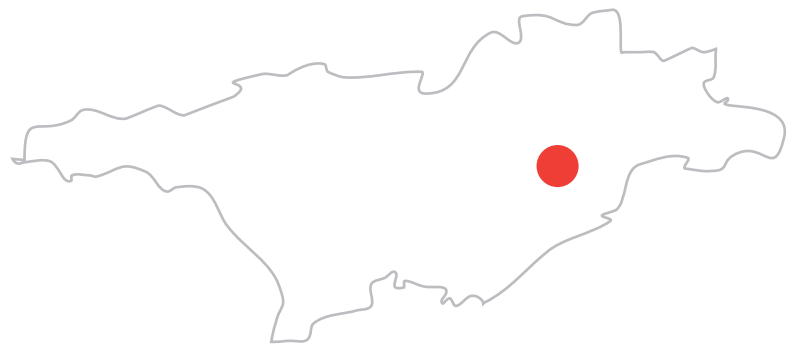
0.66

SUSTAINABLE DEVELOPMENT



0.64

GEORGIA



UKRAINE

TOP CHALLENGES FOR 2018

- Domestic and international stakeholders should work to ensure sustained progress in key areas of reform (judiciary, anti-corruption, public administration) and reforms in new fields (pensions, education, land market);
- The EU needs to forge new ways and forms of leverage to influence Ukrainian reforms now that visa liberalisation has been achieved, in particular to ensure the establishment of an independent Anti-Corruption Court;
- A new level of European integration should be secured through in-depth implementation of the Association Agreement and realisation of the full potential of the Deep and Comprehensive Free Trade Area agreement;
- The government needs to build on its successful implementation of reforms with continued diplomatic efforts to sustain international support for its territorial integrity, and to maintain EU and US sanctions against Russia over its aggression towards Ukraine.

NEW WAVE OF REFORMS IN AFTERMATH OF RUSSIAN AGGRESSION

A new status quo in and around Ukraine emerged in the second half of 2015 and continued throughout 2016. At the same time, the depth of the internal and external challenges facing the country will require intense commitment to introduce and implement reforms of over a sustained period.

On the one hand, Ukraine managed to withstand the aggression of Russia despite heavy human losses in battles in Eastern Ukraine in August 2014 and January-February 2015. The Minsk II Agreements at least made it possible to stabilise the situation on the line of contact between territory controlled by the Ukrainian government and the parts of Donetsk and Luhansk held by Russia-backed secessionist

forces.¹ However, these arrangements did not bring lasting peace in the rebel-held parts of Donetsk and Luhansk, as had been envisioned during the Normandy Four negotiations in February 2015.²

Efforts facilitated by Germany and France to bring about the full implementation of the Minsk accords – including prisoner exchanges, local elections and an amnesty for fighters – by the end of 2015 failed to produce the desired

1 The leaders of Ukraine, Russia, France, and Germany, meeting in Minsk on 11 February 2015, agreed to a package of measures to alleviate the war in the Donbass (the Donetsk and Luhansk oblasts in Eastern Ukraine). The talks followed the collapse of the Minsk Protocol ceasefire. The Minsk Protocol was signed in Minsk on 5 September 2014 by representatives of Ukraine, Russia, and the self-declared leaders of the so-called Donetsk People's Republic (DPR) and Luhansk People's Republic (LPR) with a view to implementation of an immediate ceasefire.

2 The Normandy Four is a diplomatic group of representatives of Germany, Russia, Ukraine and France, working to alleviate the conflict in Eastern Ukraine.

results. Subsequently, the parties agreed to prolong the implementation process in 2016, emphasizing that there was no foreseeable alternative to the Minsk accords.

Despite the fact that during 2016 the parties did not make headway in settling the conflict in Donbas, France and Germany recognised the validity of Ukraine's formula that the political process (in particular constitutional changes to introduce decentralisation) could not be started before a higher level of security – including Ukraine's control of all its external borders – had been guaranteed in the occupied territories.

At the same time, Ukraine continues to live under constant alert over the perceived threat of an escalation of Russian aggression. This background underpins the international relations context under which Ukraine has to conduct internal reforms, while the occupation of the heartland of Ukraine's heavy industry also wiped out close to 30% of Ukraine's exports, a major blow to Ukraine's economy.

On the other hand, a major sense of urgency was injected into the process of internal reforms during the 2015-2016 period. The relative calm at the front lines ensured by the common efforts of Ukraine and international partners (notably the US and EU member states) created a more favourable environment for substantive reforms in key areas. Ukraine's international partners were no longer responsive to excuses for the postponement of reforms, and had become more impatient over the lack of tangible results from reform programmes to which they had committed financial support to date.

The EU and the US actively promoted the idea that success in reforms would form the basis for effective countering of Russian aggression, not least through showing that Ukraine was making clear, measurable progress both as a sustainable model for economic and social development, and as a democratic country, where free and fair elections are held, with freedom of assembly, a pluralist media, and an independent judiciary and prosecution service, with a clear separation of powers, and guarantees of the rule of law backed up by effective checks and balances.

Moreover, the EU worked together with the Ukrainian authorities and civil society to promote major reforms, such as the creation of anti-corruption institutions or the establishment of the e-declaration system to hold public officials to account by mandatory

reporting of all assets they or their relatives possess in Ukraine and abroad. A key incentive in the reform process was the prospect of visa-free travel for Ukrainian citizens to the Schengen countries.

Another background factor with ramifications for Ukraine's push for European integration was the increasing uncertainty and internal discord within the EU, as exemplified by the United Kingdom's referendum on its own EU membership, resulting in the vote for Brexit in June 2016, compounded in the case of Ukraine by the rejection of the EU's Association Agreement with Ukraine in a referendum in the Netherlands in April 2016.

Both developments negatively influenced the domestic debate on European integration in Ukraine, since these developments lubricated the arguments of those forces in Ukraine that oppose reforms and closer ties with the EU, allowing them to further disseminate uncertainties in public opinion about the EU's own coherence and its commitment to Ukraine. The election in November 2016 of Donald Trump as the US President produced additional uncertainties as to Ukraine's international support.

Despite these uncertainties, following the Dutch and British referenda and the US presidential election, both the EU and the US reiterated their commitment to Ukraine's European integration, and all EU members ratified the Association Agreement with Ukraine. Similarly, both the US and the EU successively renewed sanctions against Russia over its aggression towards Ukraine, and sustained international assistance to the reform process in Ukraine.

STRONG PROGRESS ON FREE ELECTIONS AND JUDICIARY, KEY FIRST STEPS IN FIGHT AGAINST CORRUPTION

The progress Ukraine made in delivering on reforms during 2015-2016 can be seen as a glass that is either half-full or half-empty, given both the scale of the reforms attempted and the scale of the challenge to set Ukraine on a course of sustainable good governance and democratic development.

The EU clearly recognised in its statements that under the governments of prime ministers Arseniy Yatsenyuk (February 2014 - April 2016) and Volodymyr Groysman (since April 2016) Ukraine has achieved more reforms in the space of a few years than in the previous 23 years since Ukraine gained independence from the Soviet Union. Numerous examples in various reform areas attest to these assertions.³

First of all, Ukraine consolidated progress in the realm of free elections, building on the internationally recognised progress in the presidential and parliamentary elections of 2014. The local elections in October-November 2015 were recognised by international observers as free and fair, and in line with international standards. The media coverage of political parties' campaigns on state-owned television and radio channels improved significantly compared with previous elections. This positive assessment was also expressed vis-à-vis the lists of registered voters, the right to a secret ballot, and the security of polling stations during the local elections.⁴

Despite all these achievements, it would be premature to claim that the reform progress was irreversible. In the field of elections, despite all the positive developments, the OSCE/ODIHR criticised the way the Law on Local Elections was adopted in 2015. Moreover, a number of the OSCE/ODIHR recommendations on the formation of election districts were not realised. In addition, the OSCE/ODIHR paid attention to the fact that the tenures of the majority of the members of the Central Election Commission ended in 2014, yet new members were not elected. Finally, a new electoral legal framework is needed to prevent frequent changes in electoral legislation and to ensure stable long-term rules of the game.

Another high-priority area where Ukraine made considerable progress was the reform of the judiciary, which was launched in May 2016 with the adoption of new legislation. The process of the appointment of judges now includes special vetting procedures, and the advancement of

judges is conducted on a competitive basis using objective criteria. The Public Integrity Council, created under the new legislation, ensures that there is full compliance with the requirements for the process of hiring and promotion of judges, and incorporates the participation of NGOs in the evaluation process. Moreover, in the reporting period, an entirely new system was established to administer the removal of judges and punishment for malpractice. However, irregularities continue to mar the implementation of the new regulations.

The situation also improved in terms of the allocation of the necessary resources for the courts to perform their functions. The independence of judicial councils responsible for the selection of judges was also strengthened in 2015-2016. According to a reform in 2016, Ukrainian citizens now have the right to apply directly to the Constitutional Court if in their opinion a law applied in a final ruling in a case to which they are a party contradicts the constitution.⁵

Many recently launched reforms require more effort to ensure progress. For instance, the hiring of new members of the Supreme Court has not been completed.

Ukraine approved a civil service law in 2015 and a strategy on reforming public administration. The new law conforms to the Principles of Public Administration developed by the OECD's Support for Improvement in Governance and Management programme (SIGMA).⁶ However, it is still too early to evaluate the success of the reform. A total of ten ministries took part in the pilot stage of the civil service reform, and in 2017 the government announced a massive selection process for the civil service (for at least 1,000 positions).

The period beginning in mid- 2015 witnessed the creation of a whole new system of institutions to prevent corruption and to facilitate the prosecution of corruption by governmental officials. The National Agency for Prevention of Corruption (NAZK), the Special Anti-Corruption Prosecutor's Office (SAP), and the National Anti-Corruption Bureau of Ukraine (NABU) were all created,

3 *Ukraine's Reform Achievements and the EU's Support*, European Commission - Fact Sheet, Brussels, 28 October 2016, http://europa.eu/rapid/press-release_MEMO-16-3573_en.htm

4 *Ukraine. Local Elections 25 October and 15 November 2015. OSCE/ODIHR Election Observation Mission Final Report*, 19 February 2016, Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, <http://www.osce.org/odihr/elections/ukraine/223641?download=true>

5 *Opinion on the Law of Ukraine on the Judiciary and the Status of Judges*, Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, 30 June 2017, <http://www.osce.org/odihr/335406?download=true>

6 <http://www.sigmaxweb.org/publications/principles-public-administration-european-neighbourhood-policy.htm>

and these structures are now fully functioning ones. Within the framework of the NAZK, in October 2016 public officials provided the first electronic declarations of their assets, a system established to reduce corruption, to increase transparency (the e-declarations are available online to the wider public), and to facilitate prosecution of transgressions.

Another major breakthrough was the creation of ProZorro, a new online system for public procurement, a field where corruption has been rampant. ProZorro, developed by a partnership of government, business and civil society, has been mandatory for procurement by all state institutions and enterprises since 2016. After 13 months of functioning, the system – which makes publicly available all tender documents, including the bids submitted – made possible savings of more than UAH 31.4 billion (€1 billion) of public money (Ukraine has an annual GDP of ca €75bn).⁷

ProZorro received the World Procurement Award in 2016 in recognition of its accomplishments, and it was announced at the Open Government Partnership Global Summit in Paris, France, on 7 December 2016, that the initiative had subsequently won first prize at the Open Government Awards 2016.

The Ukrainian authorities took the majority of these reform steps largely due to the concerted efforts of Ukrainian civil society and international partners, in particular the EU and the International Monetary Fund (IMF). The linkage of the allocation of external funding to very specific reform requirements – to be developed together with civil society – was a key formula of this co-operation.

In the anti-corruption field, the reform goals cannot be fully accomplished without the creation of an Anti-Corruption Court – which has been persistently blocked by the ruling parties. The creation of the Anti-Corruption Court and maintenance of the independence of NABU, a condition of international donors, remained a political challenge throughout 2017.

The Anti-Corruption Court would be able to rule on corruption cases swiftly, thus circumnavigating the reality that it will take years to reform the entire system of judiciary to the point where it would become capable of handling corruption cases effectively. Moreover,

the Ukrainian authorities have continued to place hurdles in the path of NABU to impede its functioning, complicating any concerted efforts to fight corruption.

The lack of progress on the court continued throughout 2017. A draft law to establish the court was submitted to parliament by President Petro Poroshenko on 22 December 2017 in response to pressure from international donors, but the draft ignored key recommendations by the Council of Europe's Venice Commission. The European Commission in its first report under the Visa Suspension Mechanisms in 2017 stated that compliance with the recommendations of the Venice Commission was "critically important to ensure the independence, effectiveness and sustainability of the anti-corruption institutional framework". If the EU were to reject the draft version submitted to the parliament, Ukraine's visa-free relations with the EU could be jeopardised.⁸

The International Crisis Group recommended that "Ukraine's leaders need to correct their failing battle against corruption. Kyiv's international backers, in particular the EU, must attach stricter conditions to financial assistance."⁹

The position of Ukraine as a close runner-up to Moldova in the **Approximation** section of the Index 2015-2016 confirms the progress made since signing the Association Agreement with the EU, including reform of the judiciary, improvements in freedom of speech and assembly, and professionalisation of the civil service.

In the **Linkage** section of the Index 2015-2016, Ukraine is in third place behind Moldova and Georgia, but far ahead of Armenia, Azerbaijan and Belarus. Ukraine continued to be the frontrunner in terms of the depth of political dialogue with the EU, although it trailed behind Georgia, Moldova and Armenia in terms of co-operation in science and education.

⁸ *Civil Society Slates Ukrainian President Poroshenko's Draft Law on Anti-Corruption Court*, bne IntelliNews, 27 December 2017, <http://www.intellinews.com/civil-society-slates-ukrainian-president-poroshenko-s-draft-law-on-anti-corruption-court-134661/?source=ukraine>

⁹ *Ukraine: Will the Centre Hold?* International Crisis Group, 21 December 2017, <https://www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/ukraine-will-centre-hold-1>

⁷ prozorro.gov.ua

STRONG POLITICAL INTEGRATION WITH EU, BUT NEED TO SPEED UP BUSINESS REFORMS

The Government established the Office of European and Europe-Atlantic Integration (GOEEI) in August 2014 to co-ordinate and monitor implementation of the Ukraine's Association Agreement with the EU, including the Deep and Comprehensive Free Trade Area (DCFTA) agreement. Ukraine, the only EaP country that holds an annual summit with the EU, continues to be the front-runner when it comes to political dialogue with the EU.

Due to both ongoing reforms linked to its Association Agreement with the EU, and the conflict in Eastern Ukraine, Ukraine was the focus of far more European External Action Service (EEAS) statements than other EaP countries. Since 2014, Ukraine has been host to the EU Advisory Mission (EUAM) Ukraine, set up to support development of the civilian security sector. Ukraine is also the only EaP country that has established Joint Customs and Border Controls with both an EU neighbour (Poland) and a non-EU neighbour (Moldova).

The EU remains one of the key external drivers of reforms in Ukraine, but more efforts are needed to ensure their irreversibility. One of the challenges is to come up with new incentives that would help to overcome domestic resistance to reform. The visa liberalisation dialogue was a success case, but lost its leverage once visa-free travel for Ukraine was finally launched in June 2017. This situation calls for new creative solutions that would enhance the EU's transformative power towards Ukraine. Ukrainian expert community and reform forces could contribute to the ongoing reform process with constructive proposals.

The top priority in EU-Ukrainian relations is to ensure implementation of the Association Agreement through the adoption of a body of national legislation in compliance with the respective EU directives. Such legislation is aimed at creating the legal framework for reforms in various fields. In 2016, only 36 directives (fully in the case of 23) were incorporated into national legislation by Ukraine's Verkhovna Rada – out of 136 directives originally planned for the year. This pace is not satisfactory, and more domestic and

external pressure will be needed to overcome the stalemate and accelerate the process of decision-making.

According to the World Bank Doing Business rankings, Ukraine remains one of the worst performers among the EaP countries, trailing in key areas such as tax payment procedures, contract enforcement, ensuring property rights, and anti-monopoly policies.¹⁰ Ukraine also registers low intellectual property rights protection, according to the Global Competitiveness Report.¹¹

The introduction in Ukraine of the DCFTA agreement resulted in the launch of a gradual removal of tariffs on EU exports, and Ukraine harmonised with the EU the relevant anti-dumping legislation and institutions. Moreover Ukraine, like Georgia, now applies a one-stop shop for customs procedures.

At the same time, alignment has not been completed on customs and trade facilitation, and Ukraine lags behind Moldova on harmonisation with EU standards and technical regulations vis-à-vis trade relations.

The EU, which accounts for 69% of foreign direct investment (FDI) into Ukraine, is by a wide margin the largest trade partner of Ukraine, and the shift from trade with Russia towards the EU was accelerated with the move away from the import of gas directly from Russia following the conflict in Eastern Ukraine. This issue was previously used by Moscow as a key instrument of leverage. During 2015-2016, Ukraine managed to completely replace gas imports from Russian with reverse supply from Slovakia, Poland, and Hungary.

Sustainable development was given a higher priority on Ukraine's political agenda with the establishment by the government in 2016 of a high-level working group on the implementation of the UN sustainable development goals (SDGs), in addition to which the government is preparing regulations on sustainable public procurement. This focus is timely, as Ukraine registered the highest level of soil erosion of the six EaP countries in 2015-2016, and has undergone a worrying trend of reduction in forests.

¹⁰ <http://www.doingbusiness.org/rankings>

¹¹ *Global Competitiveness Report*, <https://www.weforum.org/reports/global-competitiveness-report-2015>

UKRAINE

LINKAGE



APPROXIMATION



INTERNATIONAL SECURITY, POLITICAL
DIALOGUE AND CO-OPERATION

0.78



DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)

0.70



SECTORAL CO-OPERATION
AND TRADE FLOWS

0.64



EU INTEGRATION AND CONVERGENCE

0.70



CITIZENS IN EUROPE

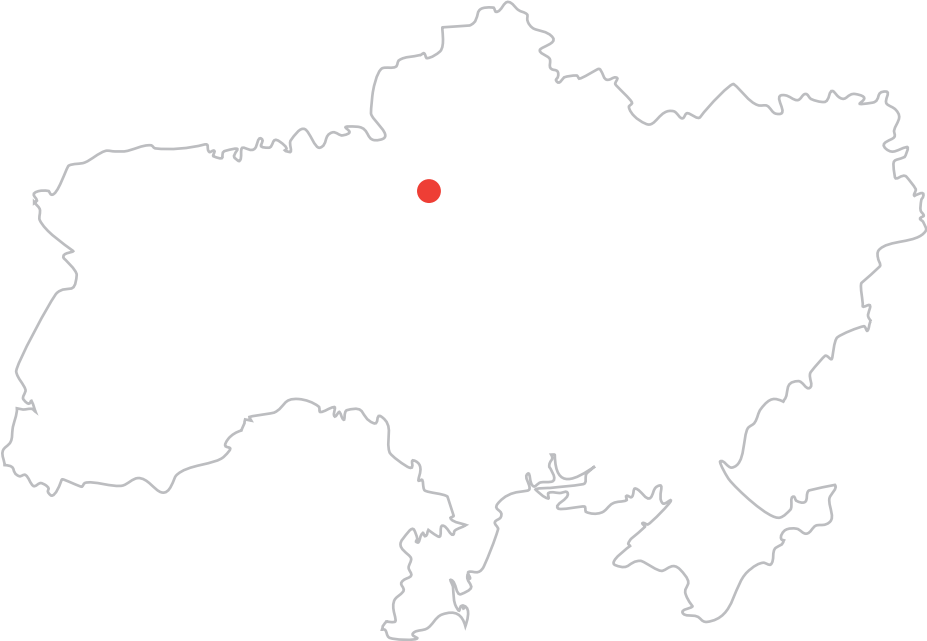
0.46



SUSTAINABLE DEVELOPMENT

0.77

UKRAINE



ARMENIA

TOP CHALLENGES FOR 2018

- Civil society, all political stakeholders, and the EU should prioritise efforts to ensure the bona fide implementation of the approved constitutional changes (move to parliamentary system of executive power) in 2018, to ensure that the changes are accompanied by effective checks and balances, and a strengthening of democratic governance and accountability;
- Structured engagement of civil society, in particular the National Platform of the Eastern Partnership Civil Society Forum, in co-operation agenda setting, assessment of the progress of democratic reforms, and in building public awareness about EU-Armenia relations – not least the implementation, and monitoring of implementation, of the Comprehensive and Enhanced Partnership Agreement (CEPA), signed between Armenia and the EU at the Eastern Partnership Summit in November 2017;
- Civil society should develop a communications strategy tailored to evaluate and improve EU-Armenia relations, and conduct a simulation of practical outcomes of EU-financed programmes in Armenia, in order to prepare recommendations to minimise investment in initiatives that will not result in worthwhile outcomes and thus damage public trust towards EU-Armenia relations.

TORN BETWEEN CONFLICTING INTEGRATION PROJECTS

The period following the U-turn of 3 September 2013, when President Serzh Sargsyan announced that Armenia would not sign the Association Agreement with the EU (even though the negotiations had been successfully concluded), was marked by a variety of contradictory trends in social, economic and political developments. Both political elites and Armenian society proved very susceptible to first being drawn into integration projects and then becoming frustrated with them.

When the negotiations between Brussels and Yerevan on the Association Agreement

were underway, the efficiency of the process was widely recognised. However, this was overshadowed by the humility shown by Armenian society in adapting to the radical change of course – from closer European integration to membership in the Russia-led Eurasian Customs Union (CU), which was converted into the Eurasian Economic Union (EAEU) in 2015. It can even be argued that the U-turn came as a welcome relief to many, especially in oligarchic circles and among the majority of the political elites: the ambitious project of European integration, promising qualitative change in the country's status – both internal and external – gave way to something obscure, but more familiar, requiring less effort and dynamism, and instead allowing the elites to continue to go with the flow.

However, the Eurasian integration process was quickly discredited in the eyes of the Armenian public even before it had materialised. First, the Armenian leadership had to endure direct messages from some of its potential partners that the country's accession to the Customs Union was not welcome. The government had to jettison its aspirations of becoming a full-fledged founder and even an "agenda-setter" in the EAEU; instead, post factum Yerevan had to accept the rules, set in advance by Moscow, Astana and Minsk.

Furthermore, the first months of implementation of the EAEU mechanisms were marked by a significant decline in Armenia's key economic indicators, with a fall of 20% in foreign trade in the first seven months of 2015, including a fall of 14% in trade with Russia.¹ This deterioration reflected to a large degree an economic crisis that hit Russia, the dominant economy in the EAEU – driven by the fall in oil prices and international sanctions introduced against Russia over its annexation of Crimea and military engagement in support of separatists in Eastern Ukraine.

Even a positive element of Eurasian integration – the simplification of migration procedures – was perceived ambivalently by parts of Armenian society concerned about the outflow of population.

There were also indirect reasons resulting in an increase in Armenian citizens' frustration with the Eurasian partners. One of them was killing of an entire family in Gyumri (the second biggest city of Armenia) by a serviceman from the 102nd Russian military base. Russian border guards who caught him during his attempt to cross into the territory of Turkey, contrary to the law, did not transfer him to Armenian jurisdiction. The protests in Armenia in connection with that were interpreted in the Russian media as actions of a "fifth column" instigated from outside.

1 *Armenia's Foreign Trade Falls by 20% in Seven Months*, ARKA News Agency, 31 August 2015, [http://arka.am/en/news/economy/armenia_s_foreign_trade_falls_by_20_percent_in_seven_months_/](http://arka.am/en/news/economy/armenia_s_foreign_trade_falls_by_20_percent_in_seven_months_/http://arka.am/en/news/economy/armenia_s_foreign_trade_falls_by_20_percent_in_seven_months_/)

Putin Concerned About Russia's Falling Trade With Armenia, Armenian Service, Radio Free Europe/Radio Liberty, 8 September 2015, <https://www.azatutyun.am/a/27232340.html>

Russian media covered additional protests in the same vein, namely the protests against the announcement of a hike in electricity prices in June 2015, known as "Electric Yerevan", and the capture of a patrol-guard regiment police station by the "Sasna Tsrer" ("Daredevils of Sassoun") armed group in Yerevan in July 2016, which was accompanied by demonstrations with political demands.

Labels like "the hand of the West", "attempt at colour revolution", and "Ukrainian Maidan scenario" were widespread. And if the participants in "Electric Yerevan" tried to persuade Moscow journalists that it would be a mistake to seek political implications in purely social demands, then a year later none of the protesters and wider audience expected anything from the Russian media except manipulated accounts of the events. This shift of mood in a specific area reflected certain general changes in perceptions about the integration vectors of Armenia.

In this respect, the results of the poll conducted by the Helsinki Citizens' Assembly Vanadzor Office and APR research group and published at the beginning of September 2016, are quite telling. While 41% of respondents spoke in favour of integration with the EU (in 2014 and 2015, the figures were 25% and 24% respectively), 25% said "yes" to the integration with the EAEU (in 2014 and 2015, the numbers were 38% and 36% respectively), 6% spoke in favour of integration with both structures (in 2014 and 2015, the figures were 12% and 13% respectively) and 9% were against both of them (in 2014 and 2015, the numbers against both were 10% and 8% respectively).

The ranking of countries considered friendly to Armenia by the respondents was of particular interest: France 78.8%, Russia 61.1%, Germany 53.8%, Greece 48.9%, China 44.8%. Three of the four "best friends" are EU member states. Even in the case of those who named Russia as a friendly state, 39.3% spoke in favour of European integration and only 29.7% were in favour of Eurasian integration. These numbers prove that a positive attitude towards bilateral relations with Russia does not necessarily mean support for EAEU membership.²

2 *Positions: to the North or West? Findings of Public Opinion Surveys*, Helsinki Citizens' Assembly Vanadzor Office and APR research group, 1 September 2016, http://hcav.am/en/events/01-09-2016-04_en/

Thus, the course of events changed public sentiment in Armenia in favour of European integration, whereas the level of support for the Eurasian project decreased, and the possibility of a combination of the two development vectors appeared less realistic. In other words, Armenia's external policy orientation enjoyed less support among its citizens than before.

This change of mood did not contribute to the advancement of EU-oriented reforms in the country, partly owing to the lack of political will on the part of the government, as well as the absence of a new legally binding agreement between the EU and Armenia that could have clearly formulated Armenia's commitments and priorities. Nevertheless, the Comprehensive and Enhanced Partnership Agreement (CEPA) between Armenia and the EU, negotiated and initialled in March 2017, creates a new situation – not only compared with the “three years of ambiguity”, but also with the period when negotiations on the Association Agreement were underway.

The extensive dialogue between Brussels and Yerevan in 2016 predetermined a relatively high result in the **Linkage** component of the Index; the same high score is not reflected, however, in the **Approximation** part of the Index.

The position of Armenia in the **Approximation** section of the Index 2015-2016 confirms the progress made prior to the country's U-turn from signing an Association Agreement with the EU, showing that in approximation to EU standards Armenia ranks alongside the three AA signatories, behind Moldova and Ukraine, but slightly ahead of Georgia, and clearly ahead of Belarus and Azerbaijan.

In contrast, in the **Linkage** section of the Index 2015-2016, Armenia is placed scarcely better than Belarus, lagging far behind the three AA signatory countries. The lack of intense political dialogue and the reorientation of Armenia's trade flows towards Russia since it joined the EAEU place Armenia far behind Ukraine, Moldova, and Georgia.

NEW CONSTITUTION IS NO GUARANTEE OF POLITICAL PLURALISM

In the context of EU-Armenia co-operation, the draft laws on “Equal Rights” (non-discrimination) and on “Domestic Violence” (including its criminalisation) have been the subjects of heated discussions. Initially, the government and, in particular, the Ministry of Justice were determined to secure the adoption of the laws and thus give a boost to the European integration agenda.

However, a decision was later made to postpone the official circulation of the two draft laws. The justification for the delay was that society needed to be ready for their adoption. However, almost nothing had been done to prepare public opinion, while organisations and media connected with conservative circles in Armenia and acting in accord with the political mood in Russia, were extensively and persistently discrediting the respective legislative initiatives. Under such conditions, society will never “be ready” for the adoption of the laws on “Equal Rights” and “Domestic Violence”, which are an important prerequisite for the progress of EU-Armenia relations.

Another important development in 2016 was the adoption of the new Electoral Code and the establishment of conditions for the administration of elections in line with international good practice. This process was crucial in the light of the fundamental reform of the Constitution, ushering in a change in the system of government – brought about through a process that lacked inclusive public consultations before its approval by a referendum in December 2015, which was marred by irregularities.³

A “trilateral” dialogue, engaging the government, the parliamentary opposition and representatives of civil society, was held to discuss the Electoral Code under the conventional formula “4+4+4”. The EU Delegation in Armenia welcomed the negotiation process and made financial support to the administration of elections conditional upon the securing of a political consensus on

³ *Final Report: Observation Mission for the Constitutional Amendments Referendum of the Republic of Armenia on December 6, 2015*, Citizen Observer Initiative and European Platform for Democratic Elections (EPDE), 2016: <http://transparency.am/files/publications/1454523289-0-754489.pdf>

the Electoral Code. Certain compromises from the government side were convincing enough for the opposition, and the latter supported the final version of the Code, which resulted in the provision by the EU of the necessary resources for purchase of technical equipment to administer the voting process.

The representatives of the civil society who participated in the consultation also recognised some progress in specific legislative provisions, but stopped short of giving a positive assessment of the overall electoral regulatory framework.

The parliamentary elections of 2 April 2017 proved that one of the most disputed provisions in the new Electoral Code, on which the government had refused to even negotiate – territorial, or “rating” lists (seats are distributed among candidates included in national and rating lists) – played a decisive role in shielding the abuse of administrative resources and vote buying. Furthermore, the equipment purchased with the EU’ support for respectively live-streaming of pictures from the polling stations and scanning of fingerprints was not working properly in all cases.⁴

The need for free and fair elections is central to the emergence of a situation where governments yield power on the basis of free competition and a level playing field. However, the same political force has remained in power for almost 20 years. The ruling Republican Party of Armenia, headed by the President, retained its absolute majority of seats, and formed a coalition and executive branch of power solely in accordance with its own agenda.

This situation provides neither for healthy political competition nor for an effective balance of powers and accountability of the authorities. The opposition factions in the National Assembly are deprived of the possibility to affect the decision-making process, and their role is mostly limited to using the parliamentary tribune for criticism and raising issues before the government with no practical leverage on the consequences. The local government elections in the autumn of 2016

4 “Legal and technical reforms bring improvements in well administered Armenian elections, but process tainted by credible information of vote-buying and pressure on voters, international observers say”, Statement of Preliminary Findings and Conclusions, Organization for Security and Co-operation in Europe (OSCE), 3 April 2017, <http://www.osce.org/office-for-democratic-institutions-and-human-rights/elections/armenia/309156>

further confirmed the trend that the ruling party was willing to use every method possible to sustain its position of power at all levels.⁵

The Constitution, as amended in 2015, envisages the transition in 2018 from a presidential (or semi-presidential, as it was officially described) to a parliamentary republic. The change was positively assessed by the Venice Commission, an advisory body to the Council of Europe on constitutional law, although the Commission emphasized “the importance of an open and continued dialogue with all the political forces and with the civil society of Armenia”.⁶

Armenian civil society groups and opposition political parties countered that the changes did not tackle the challenges concerning free and fair elections, and rather served to consolidate the position of the ruling elite, not least by removing the obstacle of the imminent term limitation facing the current President.⁷ The existing political setup is predisposed to sustain a favourable environment for the monopolisation of political power. Alongside certain external geopolitical factors, this remains the main obstacle to effective and timely implementation of reforms in the context of EU-Armenia relations.

CSOS MUST MONITOR IMPLEMENTATION OF NEW AGREEMENT WITH EU

Following its withdrawal from the Association Agreement with the EU, including the Deep and Comprehensive Free Trade Area (DCFTA) agreement, Armenia forfeited the chance to upgrade the status of legally binding bilateral documents with the EU. As a result, the EU

5 “Withdrawals were explained by Congress’ interlocutors with political pressure and even intimidation as well as the comparative advantage of the incumbents who supposedly were to be re-elected anyway.” *Information Report on the Assessment of Local By-elections in Armenia*, Congress of Local and Regional Authorities/Council of Europe, 18 September 2016

6 *Second Preliminary Opinion on the Draft Amendments, in particular to Chapters 8, 9, 11 to 16, of the Constitution of Armenia*, Venice Commission, Council of Europe, 11 September 2015, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2015\)019-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2015)019-e)

7 “Constitutional Amendments, 2013-2015”, Haykak Arshamyan, pp. 30-45, in *Civil Participation in Decision Making in the Eastern Partnership Countries. Part Two: Practice and Implementation*, Council of Europe, 2017

Generalised Scheme of Preferences (GSP) and GSP+ (Special Incentive Arrangement for Sustainable Development and Good Governance), already granted by the European Commission, remained two of the most important instruments promoting a stable environment and democratic processes.

Monitoring of the implementation of the respective key priorities and deliverables in the main clusters of bilateral co-operation agreements provides leverage and encouragement for Armenia to comply with core international standards in the areas of human rights, labour rights, environmental protection, and good governance.

Armenia had benefitted from GSP since 2005 and the GSP+ scheme from the beginning of 2014. The latter makes it possible for the country to export over 6,400 types of goods of Armenian origin to the EU either without tariffs or with significantly reduced tariffs. According to the annual monitoring, Yerevan has ratified all 27 international conventions that are the focus of GSP+. However, the implementation and the discipline of reporting significantly differ.

Since early 2016, the EU Delegation to Armenia has contributed to the dialogue with civil society by contracting a group of consultants to work with CSOs on monitoring GSP+ clusters on human rights and justice, labour rights, environment, and good governance. This monitoring makes it possible to draw a more realistic picture of Armenia's fulfilment of its commitments.

Another instrument setting the agenda of Armenia's European integration is the EU-Armenia Human Rights Dialogue, established in December 2009. While meetings are convened once a year, alternately in Yerevan and Brussels, the official statements on the progress being made as a result of those annual meetings do not consistently coincide with the assessment of the state of human rights by civil society and independent experts.

On 17 March 2016, the EU and the country's authorities both acknowledged progress in reforms in the area of protection and promotion of human rights in Armenia. In contrast, Armenian watchdogs were at the same time raising concerns about human rights issues, such as the impunity of representatives of law-enforcement bodies who used excessive

force during the above-mentioned protest rallies in June 2015, as well as politically motivated arrests and court verdicts against representatives of the opposition and civic activists.

The measures undertaken by the law-enforcement units against protesters in July 2016 received even more critical assessment by the civil society. Based on the report of its task force composed of representatives of different countries, as well as on follow-up information provided by the Armenian National Platform of the Eastern Partnership Civil Society Forum, the 8th Assembly of the Forum (Brussels, November 28-29, 2016) adopted a resolution "On Prisoners of Conscience in Armenia".⁸

These issues that drew the attention of human rights defenders in Armenia and abroad were not reflected directly in the official documents of the EU-Armenia Human Rights Dialogue, evidently a reflection of the position of the Armenian authorities. Nevertheless, "the need to implement the UN CAT [Committee Against Torture] Concluding Observations, including an independent and impartial mechanism for effective investigation and prosecution of certain crimes against human rights and freedoms committed by representative of law enforcement agencies" was stressed there.⁹

In the latest round of the dialogue, issues of concern to CSOs (quality of elections, plurality of media, gender equality) were taken into account to a larger extent than previously, as a result of the more extensive consultations of the official parties with Armenian and international civil society. This raises expectations that the EU-Armenia Human Rights Dialogue will have a stronger impact in the future on the reform process.

8 Eastern Partnership Civil Society Forum resolution on the situation of prisoners of conscience in Armenia, 2016, http://eap-csf.eu/wp-content/uploads/ResolutionNo9_EN_final.pdf

9 Press Release: 8th Human Rights Dialogue between the European Union and Armenia, European External Action Service, 30 May 2017, https://eeas.europa.eu/headquarters/headquarters-homepage/27119/press-release-8th-human-rights-dialogue-between-european-union-and-armenia_hr

One of the areas where EU-Armenia co-operation has made headway is the control of corruption. Legislative initiatives on illicit enrichment, the formation of a specialised anti-corruption body, as well as the law on “whistleblowers” have been important steps. However, the authorities’ efforts to fight against corruption continue to fall short, and this is reflected in the data collated by Transparency International.¹⁰ Indeed, there has been a slight deterioration of the performance of Armenia, according to the TI Corruption Perceptions Index (from a score of 37 in 2014 to 33 in 2016), displaying the low level of public perceptions of reforms in this sphere.

There have been several welcome regulatory changes (in the Law on Budgetary system), although they have not yet resulted in practical improvements. In another traditionally problematic area – public procurement – no positive changes were introduced in 2015-2016. One legislative amendment that could rather be assessed as negative concerned the procurement conducted by the Central Electoral Commission (CEC) – as a result of which, procurement by the CEC no longer falls under the jurisdiction of the Law on Procurement, so is no longer subject to external controls.

More promising provisions (ensuring a higher level of transparency and accountability) were included in the new Law on Procurement adopted on 16 December 2016, and came into effect on 25 April 2017, and it will be essential to track the impact of these provisions in practice.

The reform impetus from the EU has also been evident in the judiciary system, and in the areas of equal opportunities and non-discrimination. Certain institutional and regulatory measures, such as the establishment of the Agency for Personal Data Protection by the Ministry of Justice, and corresponding legislation, were introduced during 2015-2016, despite the postponement of the adoption of the law “On Equal Rights”.

At the same time, the independence of judges and the level of accountability of the judiciary

remain insufficient, and the trust of the public towards the impartiality of the courts remains low.¹¹ In particular, there are still cases of undue influence on the decisions of judges, while public access to the decisions of the courts is limited only to the parties to the proceedings. The judiciary is characterised by its lack of independence over decision-making in cases, being heavily influenced by the executive.¹²

Non-discrimination has been included as a special subject in the teaching curriculum of the Justice Academy, the School of Advocates, in regular classes for prosecutors, and classes for students at the School of the Bar Association. Nevertheless, overall court practice in examining civil cases on discrimination and the practice of investigating hate-crime cases have substantially regressed.

According to Human Rights Watch, “the government has not addressed hate speech or discrimination against LGBTI people. Gender identity and sexual orientation are not included as protected grounds in anti-discrimination or hate speech laws, limiting legal recourse for many crimes against LGBTI people. Following the October 2015 Rainbow forum, organised by Armenian LGBTI-friendly groups to discuss protection and promotion of minority rights, anonymous people targeted some participants with intimidation and threats, mostly on social media, including to burn and kill them. Authorities refused to launch a criminal investigation into the threats, citing lack of evidence.”¹³

The signature of CEPA between Armenia and the EU is both an important indicator that European integration remains an important

11 “82% of the people of Armenia believe that corruption in the public sector is a problem or a serious problem, with the judiciary (including the prosecution) and the civil service perceived to be the sectors most affected by corruption.” *Challenges for Judicial Independence and Impartiality in the Member States of the Council of Europe*, Bureau of the CCJE (Consultative Council of European Judges) and the Bureau of the CCPE (Consultative Council of European Prosecutors), 24 March 2016, [https://www.coe.int/t/DGHL/cooperation/ccje/textes/SGInf\(2016\)3rev%20Challenges%20for%20judicial%20independence%20and%20impartiality.pdf](https://www.coe.int/t/DGHL/cooperation/ccje/textes/SGInf(2016)3rev%20Challenges%20for%20judicial%20independence%20and%20impartiality.pdf)

12 *Fourth Evaluation Round. Corruption Prevention in Respect of Members of Parliament, Judges and Prosecutors. Evaluation Report Armenia*, adopted by GRECO at its 69th Plenary Meeting (Strasbourg, 12-16 October 2015), <https://rm.coe.int/16806c2bd8>

13 *Armenia Events of 2016*, Giorgi Gogia/Human Rights Watch, 2016, <https://www.hrw.org/world-report/2017/country-chapters/Armenia>

10 Corruption Perceptions Index 2016, Transparency International Anticorruption Center, available at: <https://transparency.am/en/cpi>

driver of reforms, but also presents a challenge to policymakers, opposition parties, and civil society to hold the government to account, and to ensure that laws and measures are not only enacted, but implemented in full.

ARMENIA SIGNS UP FOR SUSTAINABLE DEVELOPMENT, BUT IMPLEMENTATION FALLS SHORT

The sphere of sustainable development and environment epitomises the government's inclination to join any international initiative, and make any formal commitment, without making any sustained efforts to implement these commitments. Armenia has adopted the major internationally agreed sustainable development principles and the targets set in the Rio+20 outcomes.¹⁴ Sustainable development is recognised as a priority by the government, and a co-ordinating administrative structure has been formed. Environmental policy is the subject of a number of basic laws, and a draft Law on Environmental Policy has been elaborated and submitted to the Parliament, but it has not been adopted yet.

The Paris Climate Agreement¹⁵ was ratified by the National Assembly of Armenia and entered into force in 2017. Intended Nationally Determined Contributions (INDC) were developed and approved by the government in 2015,¹⁶ and the National Energy Efficiency Action Plan approved in 2016. A separate division on Climate Change and Atmosphere Air Protection Policy has been established in the Ministry of Nature Protection, and sectoral environmental strategies are in the process of elaboration and adoption.

14 Rio+20, also known as the United Nations Conference on Sustainable Development (UNCSD), or Earth Summit 2012, was the third international conference on sustainable development. It took place in Rio de Janeiro, Brazil, from 13 to 22 June 2012.

15 An agreement within the United Nations Framework Convention on Climate Change (UNFCCC) dealing with greenhouse gas emissions mitigation, adaptation and finance, starting in the year 2020. The agreement was adopted at the Conference of the Parties of the UNFCCC in Paris on 12 December 2015.

16 The Paris Agreement set a goal to keep the global temperature rise since pre-industrial times below two degrees Celsius. To that end, each country is to submit its national climate action plan, known as nationally determined contribution (NDC).

At the same time, the policy response to several environmental challenges has been inadequate – not least on deforestation, ineffective management of water resources, poor control over pollution by the mining industry, and appropriate use of the latter's revenue for public purposes. Likewise, government policies have properly addressed neither the new opportunities provided by renewable energy technologies and possible investments into their adoption in Armenia, promised by the West, including the EU, nor the imperative of diversification of energy supplies.

Moreover, no alternative has been found to the Metsamor Nuclear Power Plant as one of the key producers of electricity in Armenia, despite reference to it as a potential risk in the European Neighbourhood Action Plan for Armenia, the Eastern Partnership Road Map, and the draft Association Agreement as a result of negotiations in 2013.

EU SHOULD FINALLY RECOGNISE SECURITY AS HIGH PRIORITY

In EU-Armenia bilateral relations, security is accorded a very low priority. The most challenging issues for the peaceful development and engagement of Armenia in international co-operation projects revolve around the unresolved conflict with Azerbaijan on Nagorno-Karabakh and the complicated Armenia-Turkey neighbourhood. The four-day April war in 2016, and permanently increasing tensions on the line of contact of the Nagorno-Karabakh conflict point to the urgent need for new approaches in the security domain – where the EU could play a stronger role. Likewise, no diplomatic processes have been underway to reach a normalisation of Armenian-Turkish relations since 2010.

Despite the fact that these security issues pose significant difficulties for the EU's role in the whole region, no specific steps are formulated in joint EU-Armenia documents for their resolution. The OSCE Minsk group¹⁷ remains

17 The OSCE (Organization for Security and Co-operation in Europe) Minsk Group, co-chaired by France, Russia, and the United States, leads the OSCE's efforts to find a peaceful solution to the Nagorno-Karabakh conflict.

the only format for the settlement of the Nagorno-Karabakh conflict, and the Collective Security Treaty Organization (CSTO)¹⁸ and bilateral co-operation with Russia continue to comprise the main pillars of Armenian security policy.

On a positive note, Armenia shared the burden of European countries related to the dramatic developments in the Middle East by providing humanitarian aid to Syria. Armenia also accepted about 20,000 ethnic Armenian refugees from Syria, a move appreciated by the EU and a step taken at a point when the country faces huge socio-economic problems, a problem exacerbated by emigration.

Armenia is at a critical juncture, with the shift from the semi-presidential to parliamentary system of government, and it is essential that the transition be accompanied by more effective implementation of legislation and international commitments. The Armenian authorities should be focused on moving forward with reforms, promoting human rights and fighting corruption, as well as focusing on a more equitable socio-economic development of the country.

¹⁸ The CSTO is an intergovernmental military alliance that came into effect on 15 May 1992. Its current members are Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan.

ARMENIA

LINKAGE



INTERNATIONAL SECURITY, POLITICAL
DIALOGUE AND CO-OPERATION



0.45

SECTORAL CO-OPERATION
AND TRADE FLOWS



0.39

CITIZENS IN EUROPE



0.57

APPROXIMATION



DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)



0.58

EU INTEGRATION AND CONVERGENCE



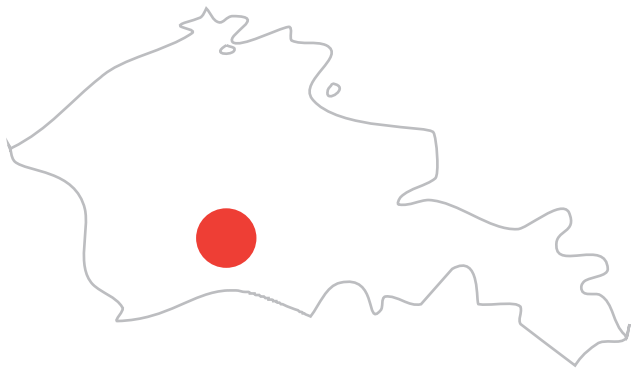
0.66

SUSTAINABLE DEVELOPMENT



0.81

ARMENIA



AZERBAIJAN

TOP CHALLENGES FOR 2018

- Sustained international support in the run-up to the 2018 presidential elections for independent monitoring of the elections, for the defence of human rights, and release of political prisoners, including journalists, human rights campaigners and opposition politicians;
- Compliance of the government with its commitments made as a member of international organisations, such as the Council of Europe and Open Government Partnership, backed up by increased stakeholder consultations in Azerbaijan, including establishment of dialogue platforms to increase independent civil society engagement with government authorities in open government and budget transparency programmes;
- Reform of the judiciary and court system and reform of the election code, and introduction of a proportional electoral system, backed up by a proportionally representative election commission, and independent election monitoring;
- Decentralisation of public administration and fiscal governance processes.

POLITICAL STABILITY RELIANT ON SECURITY AND OIL REVENUES

The preservation of political stability is the priority of the government of Azerbaijan, and the cornerstone of that stability rests upon the provision of security and upon oil revenues. Both external and internal factors challenge that stability and threaten the state-building process, such as powerful neighbours (Russia and Iran) and signs of religious radicalism.

At the same time, low oil revenues have hindered economic development, and rampant corruption has continued, combined with the lack of free and fair elections, to hold back Azerbaijan's progress in governance reforms and also closer integration with the EU – with the result that the new Strategic Modernisation Partnership Agreement has to date been negotiated without substantive consultations

with civil society. It is subsequently devoid of commitments on human rights, focusing more on "mutually beneficial co-operation".

In principle, democratic institutions and separation of powers exist, and the judiciary is formally independent. In practice, however, the checks and balances on the executive are weak, and power lies firmly in the hands of the presidential administration. The unresolved status of the Nagorno-Karabakh conflict remains an ongoing obstacle to regional co-operation and regional development, while the escalation in February 2017 of human rights abuses, including arrests of civil society activists, poses a serious challenge to implementation of democratic reforms in Azerbaijan.

The Organisation for Security and Co-operation in Europe (OSCE) has not considered any of Azerbaijan's elections since independence to be free and fair. For the first time in more

than two decades, the OSCE chose not to send a mission to monitor the November 2015 parliamentary elections, condemning the Azerbaijani government's "crackdown on independent and critical voices". The elections were boycotted by the main opposition parties.¹

The Central Election Commission (CEC) announced that 29 proposed constitutional changes were supported by more than 90% of the voters, with a voter turnout of 69.7%, in the referendum on 26 September 2016. The constitutional reforms included the extension of the presidential term from five to seven years, the creation of the office of Vice-President, and the removal of age limits for the President. On 20 September, the Venice Commission of the Council of Europe issued a preliminary opinion that many proposed constitutional changes would severely upset the balance of power and give "unprecedented" control to the President.

The report of the assessment mission of the Parliamentary Assembly of the Council of Europe (PACE) cautioned that "it would have been more useful if there had been a longer and broader open and public dialogue" ahead of the referendum, and regretted the fact that "several activists were detained on different charges during the campaign for the referendum".² On 21 February 2017, President Ilham Aliyev named his wife, Mehriban Aliyeva, as the First Vice-President. Other changes enhanced presidential powers to dissolve the Milli Majlis (Parliament) and call elections.

In the **Approximation** dimension of the Index 2015-2016, Azerbaijan trails far behind the three Association Agreement signatory countries and Armenia, but ahead of Belarus. Despite its very poor record on democracy and human rights, which is comparable with the performance of Belarus, Azerbaijan performs strongly on sustainable development and business climate.

Azerbaijan is the worst performer of all the six EaP countries in the **Linkage** section of the Index 2015-2016. Since Azerbaijan is not a member of the Eurasian Economic Union

(EAEU), on trade flows it is better linked with the EU than Belarus and Armenia. Given the strong energy links, political dialogue with the EU is also at a much higher level than in the case of Belarus, but Azerbaijan trails in sixth place on people-to-people exchange, cultural exchange, and co-operation in science and education.

CRACKDOWN ON RIGHTS OF MEDIA, NGOS, AND OPPOSITION PARTIES

During the 25 years since independence from the Soviet Union, civil society in Azerbaijan has developed dynamically with a large number of non-governmental organisations (NGOs) engaging in human rights, education, culture, health, social protection, and environmental protection. However, following several positive developments in the early 2000s – the amendment of the Law on Non-Governmental Organisations and the establishment of the Council on State Support to NGOs – the enabling environment for NGOs subsequently deteriorated sharply.

As the events in Ukraine's Maidan protests unfolded in 2014, the authorities in Azerbaijan tightened the operating environment for NGOs, and launched a crackdown on the freedoms of NGOs, human rights defenders and journalists – and their lawyers. Prominent and recognised human rights defenders and journalists were added to the ranks of political prisoners.

The crackdown on independent civil society has had a profoundly negative effect on the ability of NGOs and civic activists to engage in, let alone promote the process of European integration in Azerbaijan.

In the case of a number of member organisations of the National Platform of the Eastern Partnership Civil Society Forum, their bank accounts and even the personal accounts of senior staff were seized by court decisions adopted without any opportunity for the NGO leaders to defend themselves. Dozens of National Platform members were interrogated by the Prosecutor's Office, and criminal cases were opened against several NGOs. Under this

1 *Azerbaijan Election: Ruling Party Wins Amid Boycott*, BBC News, 1 November 2015, <http://www.bbc.co.uk/news/world-europe-34692390>

2 Statement of the PACE assessment mission for the Constitutional referendum in Azerbaijan, 27 September 2016, <http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6326&lang=2&cat=31>

pressure, sizeable numbers of independent NGOs working on European integration issues were compelled to suspend their activities.

Towards the end of 2016, a new presidential decree introduced the concept of a “single window” aimed at simplifying the issuing of foreign grants to NGOs, although the final decision on whether activities funded through foreign grants would be implemented continued to rest with the government. Grants approved by the government did not prioritise issues of human rights, democracy and the fight against corruption. The approval of human rights issues was limited mainly to solving the problems of internally displaced people, cultural and social services.

As the legislation governing grants registration stands now, the multi-step complex registration procedure for grants and donors remains in place, and the Ministry of Justice still has unlimited discretion to decide whether to register or deny a grant.

There have been calls to reduce the hurdles created by the new laws, particularly to curb the ability of government agencies to control NGO activity. At the end of March 2016, at least 12 high-profile prisoners of conscience were released, including Intigam Aliyev, a leading human rights lawyer, Rasul Jafarov, the head of Human Rights Club, and Anar Mammadli, Chair of the Election Monitoring and Democracy Studies Centre (EMDS). But some of those released, including Intigam Aliyev, and journalist Khadija Ismayilova were banned from travelling abroad; most were effectively barred from continuing their work.

Even after a raft of presidential pardons in December 2016, human rights groups counted more than 100 persons arrested on political grounds, including Ilgar Mammadov, one of the leading figures of the opposition Republican Alternative Movement. On 18 November 2016, the Supreme Court rejected an appeal by Mammadov, upholding his seven-year prison sentence in spite of a European Court of Human Rights ruling that found he had been arrested without any evidence, and repeated calls by the Committee of Ministers of the Council of Europe for his release.³

3 <http://www.coe.int/en/web/portal/-/azerbaijan-statement-by-secretary-general-jagland-on-the-decision-of-the-supreme-court-today-rejecting-the-appeal-by-ilgar-mammadov>

"International human rights monitors were denied access to Azerbaijan. Torture and other ill-treatment were widely reported, as well as arbitrary arrests of government critics," reported Amnesty International in its 2016/2017 report. "Most human rights organisations forced to suspend their activities in previous years were unable to resume their work. Reprisals against independent journalists and activists persisted."⁴

The Ministry of Transportation, Communication and High Technologies took the unprecedented step of securing a court order to block key independent media outlets, including three online websites and two satellite TV channels. The 12 May 2017 court decisions affected azadliq.info, the Azerbaijani service of Radio Free Europe Radio Liberty; Berlin-based dissident media outlet Meydan.TV; and satellite TV channels Turan TV and Azerbaijani Saati (Azerbaijan Hour).

CORRUPTION REMAINS KEY OBSTACLE TO OPEN GOVERNMENT

In 2015, Azerbaijan scored 51/100 in the Open Budget Index. Although this represented a moderate improvement from 30/100 recorded a decade earlier, it continued to demonstrate a serious lack of transparency in the country's public finances.⁵ Public participation, in particular, scored a mere 19 out of 100, indicating that the public had little or no opportunity to engage in the budget process.

The Milli Majlis provides limited oversight during the planning stage of the budget and weak oversight at the implementation stage. According to the Law on the State Budget, the Ministry of Finance submits the budget documents to the Milli Majlis, which then has to discuss and vote on the proposed budget within 20 days from the date of the submission.

In practice, however, the Milli Majlis is not given enough time to read and debate the

4 *Amnesty International Report 2016/2017*, <https://www.amnesty.org/en/countries/europe-and-central-asia/azerbaijan/report-azerbaijan/>

5 <http://www.internationalbudget.org/wp-content/uploads/OBS2015-OBI-Rankings-English.pdf>

proposals. Discussions on the budget within the Milli Majlis are limited to three days, and often lack substance and meaningful decision-making. Most importantly, only a few MPs have the required skills to analyse and question the budgetary information.

Civil society is not usually consulted at the planning stage of the budget process and it does not participate in the parliamentary debates. Recently, though, several pro-government NGOs were invited to participate in parliamentary debates. More generally, the public's access to budget documents has been limited, documents often not being made available during the budgetary discussions.

Likewise, transparency is limited on the public expenditure side. The Chamber of Accounts, the institution mandated with external scrutiny and audit of public accounts, is weak as shown by the low scores recorded on external audit in the 2014 PEFA report. Sources on the ground indicated that the Chamber of Accounts has no *de facto* independence, as the institution is under the direct control of the presidential administration and thus its ability to independently act on its own mandate is limited. It also lacks the technical capacity and resources to undertake quality public sector audits. Furthermore, its recommendations on public spending are rarely implemented by government agencies and, although it publishes brief summaries of its work, its full reports are not available to the public.

Azerbaijan joined the Open Government Partnership (OGP) in 2011 in an effort to demonstrate commitment towards promoting transparency, fighting corruption, and strengthening governance through use of new technology. The government subsequently adopted the National Action Plan on Open Government Promotion in 2012-15 and the National Action Plan on Combating Corruption 2012-15.

Progress in these focus areas has been uneven over the years. According to the Economic Research Centre (ERC), which monitored the implementation of the action plan in partnership with Transparency Azerbaijan, Azerbaijan performed best in increasing the transparency of tax controls and improving the transparency in the extractive industry,

although the scores were average in both areas. There was little to no progress in facilitating access to information, as demonstrated by the lowest scores for these dimensions.⁶

Despite these weaker areas, achievements have been made, most notably through the Azerbaijani Service and Assessment Network (ASAN), a "one-stop-shop" established in 2012 offering citizens access to multiple public services and providing transparent and efficient services with much reduced risk of corruption.

The ASAN service brings together 10 government entities and about 25 private companies that provide services in a public-private partnership. More than 270 services are provided, including birth, death and marriage registration; identity cards; passports; driver's licences; real estate records; immigrant status and other services. The ASAN service has five centres in Baku, one in Sumgait and one in Ganja. Mobile buses, fully equipped with the latest technology, operate in the regions where there are no ASAN service centres. In recognition of the success of this public sector reform initiative, Azerbaijan received the United Nations Public Service Award in 2015.

OGP countries commit to developing their action plans through a multi-stakeholder process, with the active engagement of citizens and civil society. Governments are required to report on the quality of their dialogue with civil society in their OGP self-assessment report, an aspect also assessed by the Independent Reporting Mechanism. However, the consultative process with civil society is largely missing in Azerbaijan, with public consultations not being held for the design of the second OGP action plan and only a handful of NGOs, mostly those supporting the government, being invited to participate at the event introducing the 2016-18 national action plan.

On 4 May 2016, the OGP's international Steering Committee designated Azerbaijan "inactive" in OGP, due to the continuing deficiencies in the operating environment for NGOs in the country. On 28 June 2017, the OGP Steering Committee resolved to extend the "inactive" status for a period of one year,

6 *Shadow Report. Implementation of Open Government Promotion National Action Plan 2012-2015, Assessing Preparation and Adoption of Open Government Promotion National Action Plan 2016-2018 on Compliance with Principles of Open Government Promotion*, Economic Research Center, 2016, <http://erc.az/files/neshrler/Report-ENG.pdf>

and on 25 September 2017 published a set of recommendations the government should address in order to regain "active" status in the OGP, grouped around two issues:

1. Simplify the registration process for CSOS;
2. Simplify regulations to access funding.⁷

Azerbaijan ranked 123rd out of 176 countries surveyed in Transparency International's 2016 Corruption Perceptions Index. This is reflective of the slow progress on the implementation of the action plan on combating corruption. According to the Constitution Research Fund and Transparency Azerbaijan, the organisations that are currently monitoring the implementation of the plan, the data gathered over a three-year period show an implementation rate of 83%.

The best results were achieved in developing international co-operation in the fight against corruption, improving and enhancing the professionalism of civil servants, improving legislation in the field of criminal prosecution, increasing transparency in state registration of real estate, and improving ethical behaviour. There has been some improvement in the provision of licenses, authorisations and certifications, improvement of the enabling environment for entrepreneurship, enlarging the scope of electronic services, improvement of civil service legislation and institutional mechanisms.⁸

The main problems concerning the implementation of measures in fighting corruption relate to slow progress in corruption-prone areas such as public procurement. Furthermore, although legislation requires disclosure of assets by public servants, due to the lack of supporting legislation and lack of formal procedures, this has not been implemented.

According to an investigation by the Organised Crime and Corruption Reporting Project, a secret € 2.5 billion slush fund was allegedly used for "caviar diplomacy" to pay bribes to

politicians in the Parliamentary Assembly of the Council of Europe (PACE), and to journalists. Nicknamed the "Azerbaijan Laundromat", the origin of the fund – which operated from 2012-2014 – is unclear, "but there is ample evidence of its connection to the family of President Ilham Aliyev", the report said. "This intensive lobbying operation was so successful that Council of Europe members voted against a 2013 report critical of Azerbaijan," according to *The Guardian*.

MEPs called for a parliamentary investigation into the fund in a resolution approved on 13 September 2017. In the resolution, they denounced "attempts by Azerbaijan and other autocratic regimes in third countries to influence European decision-makers through illicit means". They called for the adoption by parliament of "robust measures to prevent the occurrence of such corruption, which would undermine the credibility and legitimacy of parliament's work, including on human rights."⁹

EU RELATIONS SUFFER AS HUMAN RIGHTS RECORD WORSENS

During 2015, there was a deterioration of relations between Azerbaijan and the EU, not least as a result of the restrictive environment faced by civil society, independent media, and the political opposition in Azerbaijan. On 15 September 2015, the European Parliament adopted a resolution criticising Azerbaijan's fast deteriorating human rights situation and called upon the EU Council "to consider the possibility of targeted sanctions against those responsible for human rights violations, should these persist".

Subsequent to the resolution, the Milli Majlis convened an emergency session to discuss the resolution, which resulted in a "counter-resolution" declaring Azerbaijan's intention to formally withdraw from the Euronest Parliamentary Assembly.¹⁰ As such

⁷ Updated Recommendations for the Government of Azerbaijan Criteria and Standards Subcommittee, Open Government Partnership, 25 September 2017, https://www.opengovpartnership.org/sites/default/files/Azerbaijan_Final-Recommendations_Sept2017.pdf

⁸ Final Monitoring Report. On the implementation of the Open Government Initiative National Action Plan for 2012-2015. September 2012 – December 2015, Transparency International Azerbaijan, 2016, http://www.transparency.org/az/alac/OGP_AZ_Report_Final_EN_Nov_2016.PDF

⁹ "European Parliament Calls For Probe Into 'Azerbaijani Laundromat'", Radio Free Europe/Radio Liberty, 13 September 2017, <https://www.rferl.org/a/european-parliament-calls-for-probe-into-azerbaijani-laundromat/28734030.html>

¹⁰ The Euronest Parliamentary Assembly is the parliamentary component of the Eastern Partnership, consisting of members of the European Parliament as well as members of the national parliaments of Ukraine, Moldova, Armenia, Azerbaijan and Georgia.

a development requires one year's advance notice to the European Parliament, the Milli Majlis further declared that it would suspend its participation in the Euronest Parliamentary Assembly during the year in question. At the same time, the Milli Majlis "terminated participation in the existing format of the EU-Azerbaijan Parliamentary Co-operation Committee", and the Azerbaijani authorities cancelled talks with the European External Action Service (EEAS) scheduled to take place in late September 2015 to discuss the Strategic Modernisation Partnership Agreement under development between the EU and Azerbaijan.

By September 2016, relations had improved. Following the visit of a delegation of the European Parliament on 19-21 September, on 30 September 2016 the Milli Majlis passed a resolution on resuming relations, subsequently restarting participation in Euronest meetings. Azerbaijan and the EU concluded a scoping exercise and, on 14 November 2016, the EU's Foreign Affairs Council adopted a mandate for the European Commission and the EU's High Representative for Foreign Affairs and Security Policy to negotiate, on behalf of the EU and its member states, a comprehensive agreement with Azerbaijan

Negotiations on the new Strategic Modernisation Partnership Agreement were launched following the visit of President Ilham Aliyev to Brussels on 6 February 2017. The new agreement "will follow the principles endorsed in the 2015 review of the European Neighbourhood Policy and offer a renewed basis for political dialogue and mutually beneficial co-operation between the EU and Azerbaijan".¹¹ The government of Azerbaijan has not consulted civil society on the shape or content of the agreement.

The strategic framework, key results and indicative financial allocations for the EU's bilateral co-operation with Azerbaijan in 2014-2017 are set out in the Single Support Framework for EU Support to Azerbaijan.¹² Azerbaijan is also eligible to participate in

11 *EU-Azerbaijan Relations*, European External Action Service, 6 February 2017, https://eeas.europa.eu/headquarters/headquarters-homepage_en/4013/EU-Azerbaijan%20relations

12 *Programming of the European Neighbourhood Instrument (ENI) - 2014-2020. Single Support Framework for EU support to Azerbaijan (2014-2017)*, European External Action Service and European Commission, http://eeas.europa.eu/archives/docs/enp/pdf/financing-the-enp/azerbaijan_2014_2017_programming_document_en.pdf

regional programmes funded under the European Neighbourhood and Partnership Initiative (ENPI)/European Neighbourhood Instrument (ENI) (mainly in energy, transport, and border management), in the Eastern Partnership Flagship Initiatives, in cross-border co-operation, and in Erasmus+, TAIEX, SIGMA, and the Neighbourhood Investment Facility (NIF).

In addition to the ENI, there is funding available under the EU thematic programmes: the European Instrument for Democracy and Human Rights (EIDHR), the Instrument contributing to Stability and Peace (IcSP), and the funding instruments for Civil Society Organisations and Local Authorities, Human Development and Migration & Asylum.

ENERGY SUPPLY REMAINS KEY FACTOR IN DIPLOMATIC RELATIONS

Azerbaijan continues to lack a dedicated institution for sustainable development policies, and is the least engaged EaP country in multilateral and bilateral environmental agreements. The government provides basic services through fully functional and highly centralised administrative systems, although the quality of education and healthcare services is basic.

Increases in public spending, funded from oil revenues, made possible an improvement of service delivery over the past decade, but poor incentives (such as low salaries and weak meritocracy) and widespread corruption continue to undermine the capacity of the public administration. Corruption still is a main challenge for private sector and, in practice, the consolidation of monopolies in the hands of a restricted elite remains a significant constraint to market competitiveness and development.

In 2016, low oil prices had a negative impact on economic growth, delaying the prospects of economic reforms. GDP declined 3.8 % and non-oil GDP declined 5.4 %. Public investment fell 261 %, and non-oil exports dropped by 17.8%.

Azerbaijan has not become a member of the World Trade Organisation, a prerequisite for commencement of negotiations with

the EU on the establishment of a Deep and Comprehensive Free Trade Area (DCFTA) agreement. At the same time, Azerbaijan remains outside the Russia-led trade bloc, the Eurasian Economic Union, in part to balance its relations towards Brussels and Moscow, in part due to the unresolved conflict over Nagorno-Karabakh with Armenia (an EAEU member).

Azerbaijan is an important energy partner for the EU, supplying around 5% of the EU's oil demand and bringing Caspian gas resources to the EU market through the Southern Gas Corridor, a key diversification tool for the security of energy supply.

The infrastructure that is to bring gas from the Caspian basin, notably from Shah Deniz II field, consists of the expansion of the existing South Caucasus pipeline from Azerbaijan via Georgia to Turkey; the Trans-Anatolian pipeline (TANAP), crossing Turkey and connecting Georgia with Europe; and the Trans-Adriatic pipeline (TAP), transporting gas from the Turkish border via Greece and Albania to Italy. A giant offshore gas field in the Azerbaijani sector of the Caspian Sea, Shah Deniz II will provide an initial 10 billion cubic metres of gas per year to European markets plus an additional 6 billion cubic metres per year to Turkey.

In order to ensure better co-ordination of project implementation between relevant stakeholders, Azerbaijan has launched the Southern Gas Corridor Advisory Council, the meetings of which are held annually at ministerial level with the active involvement of international financial institutions. The meetings are attended by Maroš Šefčovič, the European Commissioner for Energy Union.

Azerbaijan was the first Extractive Industries Transparency Initiative (EITI)-compliant country in 2009, a status that (amongst other criteria) requires a country commitment to increase the amount of information available to the public. Due to the operating restrictions imposed on NGOs and their limited ability to participate in the EITI process, Azerbaijan's status was downgraded to EITI candidate on 15 April 2015. According to the ruling, Azerbaijan could regain its compliant status by implementing the corrective actions requested by the EITI Board by 15 April 2016.¹³

The EITI Board called on the government and

the EITI multi-stakeholder group in Azerbaijan to take steps to ensure that civil society could resume its role in the EITI process and carry out the tasks foreseen in the EITI work plan, including by ensuring that civil society representatives substantively involved in the EITI process were able to:

- freely access and use funding to carry out its activities; and
- speak freely about the EITI process and express views on natural resource governance without fear of reprisal.

During its meeting in Astana, Kazakhstan, on 26 October 2016, the EITI Board agreed to call on the government to take corrective action to ensure an enabling environment for civil society to participate in the EITI process in Azerbaijan. But, at its next meeting in Bogota, Colombia, on 9 March 2017, the EITI Board suspended Azerbaijan's membership in the coalition owing to the failure of the government of Azerbaijan to ensure the enabling environment for CSOs, as sought at the October 2016 EITI Board meeting. On 9 March 2017, the government of Azerbaijan withdrew from the EITI.¹⁴

13 *29th EITI Meeting Board Minutes*, 27 April 2015, <https://eiti.org/files/BP/Minutes-from-the-29th-EITI-Board-meeting-Congo.pdf>

14 *Azerbaijan Leaving EITI*, <https://en.trend.az/azerbaijan/business/2730135.html>

AZERBAIJAN

LINKAGE

0.42



INTERNATIONAL SECURITY, POLITICAL
DIALOGUE AND CO-OPERATION



0.31

SECTORAL CO-OPERATION
AND TRADE FLOWS



0.50

CITIZENS IN EUROPE



0.46

APPROXIMATION

0.56



DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)



0.32

EU INTEGRATION AND CONVERGENCE



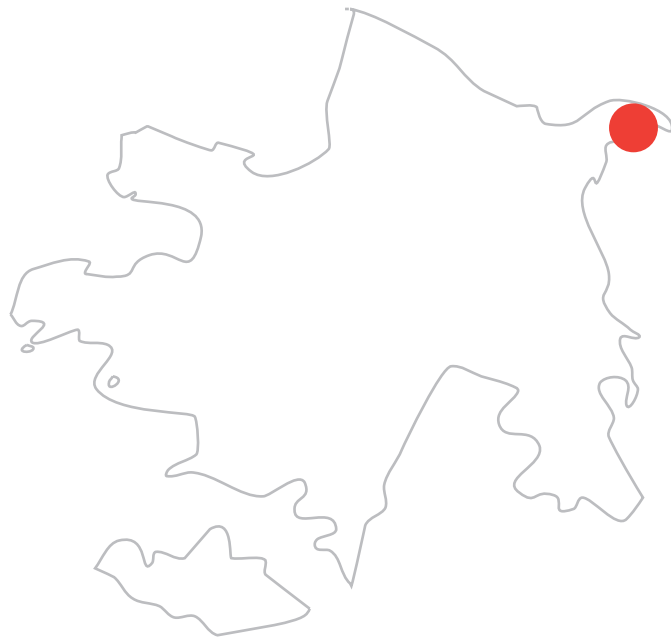
0.57

SUSTAINABLE DEVELOPMENT



0.78

AZERBAIJAN



BELARUS

TOP CHALLENGES FOR 2018

- The administration should introduce an immediate moratorium on the death penalty, follow the recommendations of the Universal Periodic Review (UPR) of the United Nations Human Rights Council, and fully co-operate with the UN Special Rapporteur on Human Rights in Belarus;
- The Parliament should improve the legislative framework governing CSOs, ease the registration process for CSOs and foreign funding of CSOs, and abolish article 193.1, according to which the founding of, or participation in the activities of, an unregistered organisation is a criminal act;
- Belarus should complete the requirements for a Visa Facilitation and Readmission Agreement with the EU, and then push forward with meeting the technical and political requirements for visa-free travel to the EU's Schengen area;
- The government should conduct real economic reforms in line with the recommendations of international financial institutions and reduce the indebtedness of the state finances.

CAUTIOUS GROWTH IN POLITICAL CO-OPERATION WITH EU

The thaw in EU-Belarus relations, which started in 2014, continued through 2015-2016, although it failed to bring significant or sustainable structural changes. In January 2015, the Council of the European Union developed a "list of possible additional specific measures to deepen the policy of critical engagement towards Belarus" (an unpublished document outlining the so-called 29 points),¹ which became a roadmap for step-by-step improvement of relations.

The document provided for, among other measures, the development of sectoral dialogue between the EU and Belarus; the use of TAIEX

¹ Belarus: *List of Possible Additional Concrete Measures to Deepen the EU's Policy of Critical Engagement with Belarus*, Council of the European Union, ST 5544 2015 INIT, 23 January 2015, see also: Belarus-European Union: 'Detente' 2.0, Dzianis Melyantsov, Belarusian Yearbook, 2016, <http://nmnby.eu/yearbook/2016/en/page8.html>

instruments for technology transfer;² providing Belarus with observer status in the Northern Dimension;³ the signing of visa facilitation and readmission agreements and a Mobility Partnership agreement;⁴ the abolition of quotas on textiles; facilitation of negotiations about an International Monetary Fund (IMF) loan for Belarus; support for Belarus's accession to the World Trade Organization (WTO); the establishment of a new legal basis for bilateral relations; and the suspension and subsequent lifting of sanctions. Many of these provisions were implemented during 2015-2016.

² The TAIEX (Technical Assistance and Information Exchange) instrument of the European Commission supports public administration with regard to the approximation and implementation of legislation in line with EU standards in EU candidate and potential candidate countries, European Neighbourhood Policy countries, and Russia.

³ The Northern Dimension is a joint policy between EU, Russia, Norway and Iceland designed to promote dialogue, strengthen stability, and promote economic integration.

⁴ Mobility Partnership agreements provide a framework for bilateral co-operation between the EU and its partners, based on commitments and project initiatives covering mobility, migration and asylum.

HUMAN RIGHTS ABUSES ALLEVIATED BY BOUTS OF 'SOFTER' REPRESSION

The most significant step taken by the Belarusian side was the release on 22 August 2015 of six political prisoners (including Mikalay Statkevich, an opposition presidential candidate in 2010). This induced a positive response from the EU, which suspended most of the restrictive measures against Belarus in October 2015,⁵ and then lifted them in February 2016.⁶ This took the form of the removal of sanctions – specifically, an asset freeze and travel ban on 170 Belarusian officials, including President Alyaksandr Lukashenka, and asset freezes against three companies. However, some restrictions (an arms embargo and sanctions against four individuals listed in connection with unresolved disappearances) were prolonged for one year.

In no small measure, the positive decision of the EU was influenced by the assessment by international observers – the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly, and the Parliamentary Assembly of the Council of Europe (PACE) – of the electoral campaign preceding the 11 October 2015 presidential elections. The international observers noted the non-democratic character of the elections in general, yet also noted “some specific improvements”, “welcoming attitude” and the peaceful character of the campaign.⁷

The parliamentary elections on 11 September 2016 drew similar assessments with regards to the legal restrictions of political rights and fundamental freedoms, the lack of plurality, the limited independence and transparency of the election process, and its overall restrictive character. At the same time, the international observers noted the effectiveness of election organisation, the increased number of opposition candidates, and a “welcoming attitude”.

5 *Council Conclusions on Belarus*, Council of the European Union, Press release, 29 October 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/10/29/belarus/>

6 *Council Conclusions on Belarus*, Council of the European Union, Press release, 15 February 2016, <http://www.consilium.europa.eu/en/press/press-releases/2016/02/15/fac-belarus-conclusions/>

7 *Belarus, Presidential Elections, 11 October 2015: Final Report*. OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR), 28 January 2016, <http://www.osce.org/odihr/elections/belarus/218981>

As a result of the elections, for the first time since 2008 two independent candidates were elected to the lower chamber of parliament (critics charge that they were de facto “appointed” by the authorities),⁸ respectively a member of the opposition “United Civil Party” and a representative of an NGO, the “Belarusian Language Society”.⁹

Despite the release of the six political prisoners in 2015 (albeit without the rehabilitation that was initially sought by the EU), the general human rights situation in Belarus did not bring any significant changes during 2015-2016. Rights and fundamental freedoms remained restricted both legally and in practice.

At the same time, some repressive practices were applied in “softer forms”. For instance, instead of violent crackdowns on peaceful demonstrations and mass arrests of participants, the authorities instead used the practice of administrative fines. According to Belarusian human rights defenders, at least seven persons were subjected to criminal persecution on political grounds. During the period in focus the death penalty continued to be used, four death sentences were executed.¹⁰

A new infringement of human rights was introduced in the form of penalties against “social parasites”. After the adoption of Presidential Ordinance No. 3 “On preventing freeloading practices” on 2 April 2015 (dubbed “the decree against social parasites”), and its subsequent parliamentary approval, several categories of citizens, including unregistered unemployed persons, were obliged to pay a special tax. The new law requires people who were employed fewer than 183 days in a calendar year, but are not registered as unemployed, to pay BYN360 (€181). The law exempts registered job-seekers, homemakers, subsistence farmers, and those working in Russia.

8 “Token’ Belarusian MP Hopes to Give Opposition a Voice”, Andrei Makhovsky, Reuters, 18 September 2016, <https://uk.reuters.com/article/uk-belarus-opposition/token-belarusian-mp-hopes-to-give-opposition-a-voice-idUKKCN110076>

9 *Belarus, Parliamentary Elections, 11 September 2016: Final Report*, OSCE ODIHR, 8 December 2016, <http://www.osce.org/odihr/elections/287486>

10 See *Human Rights Situation in Belarus in 2016. Analytical Review*, Human Rights Centre “Viasna”, 2016, http://spring96.org/files/misc/review_2016_en.pdf; *Human Rights Situation in Belarus in 2015. Analytical Review*, Human Rights Centre “Viasna”, 2015, <http://spring96.org/files/misc/human-rights-situation-in-belarus-in-2015.pdf>

In case of non-payment, citizens can face arrest. In late 2016, the authorities sent the tax payment notices to those covered by the decree (around 400,000 persons in total). Against the background of a worsening economic situation in the country, this requirement provoked mass protests across the country in February-March 2017. On 17 February 2017, around 3,000 people gathered in central Minsk in the largest public rally since 2011. Protests continued even though President Lukashenka had decided to postpone the measure until 2018.

The Belarusian authorities took repressive measures against protesters in March 2017. Following anti-government protests on 15 March, 27 people were arrested after an instruction given by President Lukashenka to law enforcement agencies on 9 March to introduce “perfect order in the country”. Police then raided the offices of the human rights monitoring group, Viasna, in Minsk, ahead of anti-government Freedom Day rallies across the country on 25 March. Former presidential candidate Uladzimir Nyaklyaeu was detained by police in Brest on 24 March and, according to Viasna, more than 300 people were detained.¹¹

RETURN OF DIALOGUE TOWARDS EUROPEAN INTEGRATION

Bilateral contacts between Belarus and the EU intensified with the lifting of EU sanctions following the release of political prisoners and in the aftermath of the peaceful elections of 2015 and 2016. In 2015, Belarus exchanged visits at the level of Foreign Minister and Deputy Foreign Minister with Lithuania, Poland, and Germany. The Foreign Ministers of Slovenia and Bulgaria, and other official representatives of Romania, the United Kingdom, Austria and other EU Member States visited Belarus.

Several delegations of EU institutions visited Minsk, including an EU delegation headed by the then Deputy Managing Director for Russia, Eastern Partnership, Central Asia and OSCE at the European External Action Service (EEAS), Gunnar Wiegand, and Deputy Director-General for Neighbourhood Policy and Enlargement

11 *Heavy Riot Police Presence In Minsk Following Crackdown*, Radio Free Europe/Radio Liberty, 26 March 2016, <https://www.rferl.org/a/belarus-opposition-parasite-tax-protest-nyaklyaeu/28389979.html>

Negotiations, Katarína Matheriová, in December 2015, and EU Special Representative for Human Rights, Stavros Lambrinidis, in March 2016.

An important step forward was the launch in April 2016 of the new format of structured dialogue in the form of the “EU-Belarus Co-ordination Group”.¹² The Co-ordination Group includes representatives of Belarusian ministries and relevant European Commission departments, under the general co-ordination of the EEAS and the Belarusian Ministry of Foreign Affairs.

For the first time in 20 years, representatives of civil society, including representatives of the Eastern Partnership Civil Society Forum National Platform, took part in high-level co-operation meetings. The Co-ordination Group discusses issues of deepening co-operation with the EU in a broad range of thematic spheres: economy, finance, environment, trade, energy, customs, innovation, standardisation, education, and human rights. The Group meets regularly every six months.

On 24 May 2016 the Belarusian-EU Investment Forum “Vienna Forum: to promote EU investments in Belarus” was held in Austria, with the participation of the First Deputy Prime Minister, Vasily Matyushevsky. On behalf of the EU, the European Commissioner for European Neighbourhood Policy and Enlargement Negotiations, Johannes Hahn, participated, along with the Vice-President of the European Bank for Reconstruction and Development, Alain Pilloux.

The EU-Belarus bilateral Human Rights Dialogue was resumed in 2015, and the first meeting took place in June 2016.¹³ The EU delegation was led by the EEAS Managing Director for Europe and Central Asia, Thomas Mayr-Harting, and the Belarusian delegation was led by the Deputy Foreign Minister, Alena Kupchyna. The meeting involved representatives of the EU Member States and representatives of civil society.

In September 2016, the EU doubled the volume of technical assistance to Belarus from €14.5

12 Co-ordination Group Belarus-EU Met in Brussels, Ministry of Foreign Affairs of the Republic of Belarus, 7 April 2016, http://mfa.gov.by/en/press/news_mfa/f1d86aed337070ba.html

13 EU-Belarus Human Rights Dialogue, EEAS, Press release, 9 June 2016, https://eeas.europa.eu/headquarters/headquarters-homepage_en/5040/EU-Belarus%20Human%20Rights%20Dialogue

million in 2015 to €29 million in 2016.¹⁴ Funding would be provided to strengthen private sector development (€14 million), to address the phenomenon of increasing numbers of irregular migrants (€7 million), to strengthen institutions by supporting the implementation of structural and institutional reforms in key areas (€6 million), and to support the European Humanities University based in Vilnius (€2 million).

In October 2016, in addition to the already existing bilateral sectoral dialogue on economy and finance, environment, and human rights, a new dialogue process on trade was launched.¹⁵ In 2015-2016, Belarus was also admitted to the Bologna Process¹⁶ and granted observer status in the Northern Dimension.

Certainly, the positive dynamics of EU-Belarus relations during 2015-2016 led to the establishment of new formats of dialogue, the return of Belarus to the normal format of diplomatic relations, and the strengthening of the country's positive foreign policy image. On the other hand, the improvement in relations is limited mainly to diplomacy and negotiations, and is accompanied neither by any significant improvements in Belarus concerning democracy and human rights nor by substantive progress in reforms in other spheres.

It is also worth recognising that the overall shift in EU-Belarus affairs is caused much more by geopolitical reasons (pursuant to Russia's illegal annexation of Crimea) rather than any change in the situation in Belarus with respect to human rights and fundamental freedoms. The EU's policies have been largely directed by the feeling that Belarus could be extracted from the embrace of Moscow through a cautious engagement with the EU.

In the **Approximation** section of the Index 2015-2016, Belarus trails behind all the other five EaP countries. Its persistently poor record on democracy and human rights, comparable

14 New EU Support to Private Sector Development and Strengthening Institutions in Belarus, EEAS, Factsheet, 27 September 2016, https://eeas.europa.eu/delegations/belarus/10855/new-eu-support-private-sector-development-and-strengthening-institutions-belarus_en

15 *Annual Review of Foreign Policy of the Republic of Belarus and Activities of the Ministry of Foreign Affairs in 2016*, Ministry of Foreign Affairs of the Republic of Belarus, MFA Report, 2016, <http://mfa.gov.by/en/publications/reports/d3b4307b86bee65e.html>

16 The Bologna Process is a series of agreements to ensure comparability in the standards and quality of higher-education qualifications, including the European Higher Education Area.

with the performance of Azerbaijan, is compounded by weak performance in terms of sustainable development and market economy.

Belarus is the second worst performer of all the six EaP countries in the **Linkage** section of the Index 2015-2016. As a member of the Eurasian Economic Union (EAEU), on sectoral co-operation and trade flows, as well as political dialogue, it has the weakest links with the EU of all EaP countries. On the other hand, Belarus performs better on people-to-people mobility, cultural exchange, and co-operation in science and education.

NO PROGRESS ON VISA FACILITATION OR NEW BILATERAL AGREEMENT

The relations between Belarus and the EU have not had a strong basis in a bilateral treaty since the Partnership and Co-operation Agreement was suspended in 1997. The Belarusian authorities had counted on using the recent improvement in relations to start negotiations on a new bilateral agreement, but the EU was not ready for such a decisive move. The position of the EU rests on doubts about the sustainability of reforms in Belarus and the slow progress in negotiations in other spheres.

Negotiations between Belarus and the EU on a Visa Facilitation and Readmission Agreement were launched in late 2014 with a view to initial the agreement during the Eastern Partnership Summit in Riga, Latvia, on 21-22 May 2015. However, the agreement was not finalised even in 2016, and was not ready in the run-up to the Eastern Partnership summit taking place in Brussels on 24 November 2017.

According to Belarusian and EU officials, one of the key obstacles is the fact that Belarus is not ready to meet EU security requirements that Belarusian diplomatic passports should be biometric passports. A second complication was Belarus's ambition to have a transition period to implement the readmission agreement - a concession the EU did not want to make. Based on these and possibly other hidden disagreements, negotiations were de facto suspended.¹⁷ Although the EU planned

17 *Belarus-EU: Long Bumpy Road Towards Visa Facilitation*, Andrei Yeliseyev, BELL, Issue 4-5 (53,54), 2016, http://east-center.org/wp-content/uploads/2016/06/Yeliseyev_BELL.pdf

to resume and finalise negotiations in 2017, further progress was not made. Anticipated agreements on Local Border Traffic with Lithuania and Poland were not signed either.

A positive success in EU-Belarus co-operation was record in the field of migration policy with the signature of the joint declaration on Mobility Partnership in October 2016.¹⁸ The document has provisions for developing co-operation in the spheres of labour migration, readmission, ensuring security of documents necessary for border crossing, prevention of irregular migration, granting of asylum and protection of refugees, and other measures related to migration.

In May 2015, Belarus signed a Co-operation Arrangement on an Early Warning Mechanism in the Energy Sector and within the Bologna Process was admitted to the European Higher Education Area (EHEA).¹⁹ During the admission of Belarus to the EHEA, the significant shortfall of Belarus in implementing the principles and norms of the Bologna Process was acknowledged.

Aiming at closing the gaps, Belarus was offered a Roadmap for Higher Education Reform until 2018 with provisions for a number of structural reforms (development of a National Qualification Framework compatible with the QF-EHEA, establishment of an independent quality assurance agency, implementation of the European Credit Transfer System (ECTS) which provides common procedures for academic recognition across European higher education institutions, review of the obligation for students whose education is financed by public funds to accept work placements on graduation, development of the international mobility of staff and students and implementation of fundamental EHEA values – academic freedoms and autonomy of universities).

The roadmap has the semi-obligatory character of voluntarily accepted obligations, but it also has a mechanism for monitoring their implementation. By late 2016, only one-third of the provisions of the Roadmap had been implemented, and these were the least important ones.²⁰

18 *EU Launches Mobility Partnership with Belarus*, European Commission, 13 October 2016, https://ec.europa.eu/neighbourhood-enlargement/news_corner/news/2016/10/20161013_2_en

19 *EU-Belarus Relations, Factsheet*, EEAS, 15 February 2016, https://eeas.europa.eu/delegations/belarus/4014/eu-belarus-relations_ru

20 *5th Monitoring Report on Implementation of Belarus*

During 2015-2016, the number of treaty commitments between Belarus and the EU increased, but the top priority goals of signing a Visa Facilitation and Readmission Agreement and opening negotiations on a bilateral treaty remained unresolved.

NEUTRAL PEACE BROKER OR RUSSIA'S MILITARY ALLY?

The European Council reiterated the constructive role of Belarus in the region as a positive factor in the development of relations during 2015-2016, in particular the official neutrality of Belarus towards the Russia-Ukraine conflict. From the very beginning of the conflict, Belarus at the level of official discourse and discourse in state-run media has not expressed direct support to the Kremlin's position towards Ukraine and its Eastern regions, has not participated in Russian sanctions against Ukraine, but has served as channel for some Ukrainian exports to enter the Russian market.

In 2015, When Belarus revoked a 2013 agreement to allow the installation of a new Russian military base on its territory, this further enhanced the country's image of neutrality. This positioning enabled Belarus to become an acceptable venue for negotiations between parties involved in the geopolitical conflict. Since late 2014, meetings of the Trilateral Contact Group on Ukraine have taken place in Minsk (the so called "Minsk process", where the "Minsk agreements" were signed). In February 2015, the meeting in the format of the Normandy contact group (the leaders of Germany, France, Russia and Ukraine) was held in Minsk.

The Belarusian authorities actively use the image of "negotiations platform", "new Geneva" or even "broker of regional stability" in their foreign policy discourse. At the same time, the real role of Belarus is far removed from this characterisation. As evidenced by the Zapad 2017 joint military exercises held by Russia and Belarus in September 2017, Belarus is deeply involved in military and political co-operation with Russia, and has common air defence forces and Russian military installations on

Roadmap for Higher Education Reform (Feb-May 2017), Belarusian Independent Bologna Committee (BIBC), 21 May 2017, <http://bolognaby.org/index.php/en/slider-home-ru-2/669-4th-monitoring-report-on-implementation-of-belarus-roadmap-for-higher-education-reform-3>

its territory. Moreover, Belarus voted against UN resolutions on the “territorial integrity of Ukraine” and on the “situation of human rights in Crimea”, recognises Russian passports for inhabitants of Crimea, and the image of “unstable Ukraine” is widely used in the state-run media. All this makes the position of Belarus towards the conflict at least ambivalent.

RESTRICTED RAPPROCHEMENT, BUT WEAK FOUNDATIONS

In 2014, Belarus was suffering an economic crisis, which continued in 2015-2016. The country's gross domestic product (GDP) decreased from \$78.8 billion in 2014 to \$56.4 billion in 2015 and \$47.4 billion in 2016²¹, real per capita income of the population decreased from \$550 (2014) to \$350 (2016)²² and the official unemployment rate rose from 0.5% (2014) to 5.8% (2016).²³

As a consequence of both the economic crisis and the fall in the global price of oil, the volume of trade in goods between Belarus and the EU has continuously decreased since 2013 (from € 12.017bn in 2013 to €9,429bn in 2015 and €7.948bn in 2016). Nevertheless, the EU remains the second largest trade partner for Belarus, accounting for 21% of the total volume of Belarus's trade in goods with other countries.²⁴

In 2015, the government took several strict measures in macroeconomic regulation, including more strict monetary and fiscal policies, tying salaries to labour productivity, and floating the exchange rate, which gave ground for hopes for stabilisation of the economic situation in late 2016. However, the main structural economic problems of Belarus remained unresolved.

Sustained economic growth in Belarus requires a reduction of the size of the public sector of

21 Belarus. World Bank, <http://data.worldbank.org/country/belarus>

22 Belarus Average Monthly Wages, Trading Economics, <https://tradingeconomics.com/belarus/wages>

23 *Новая старая безработица: откуда взялись и что означают новые, непривычно высокие цифры* (New Old Unemployment: Where Did it Come From, and What do the New, Unusually High Figures Mean?), Aleksandr Chubrik, TUT.BY, 27 February 2017, <https://news.tut.by/economics/533281.html>

24 European Union, Trade in Goods with Belarus, European Commission, DG Trade, 3 May 2017, http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113351.pdf

the economy and privatisation, an end to state support for inefficient plants and sectors of the economy, more efficient management of troubled state-owned enterprises, improvement of the business climate, progress in adapting to WTO norms, and a range of other measures.

The Belarusian authorities have been moving very slowly and reluctantly in the process of reforms, which has reduced their options for co-operation with international financial institutions and for attracting foreign investment. With assistance from the EU, in 2015-2016 Belarus began negotiations for a stabilisation loan with the IMF, but the negotiations were not successful. At the same time, there has been some progress in relations with European Bank for Reconstruction and Development, which broadened the possibilities for co-operation with the Belarusian government in its new strategy for 2016-2020.

Among the six Eastern Partnership countries, Belarus ranks highest on UNDP's Human Development Index. Moreover, Belarus has by far the lowest maternal death rate and the lowest rate of mortality for children under five (and also outperforms Lithuania on both indicators). Belarus has a National Strategy for Sustainable Social and Economic Development until 2030 and has generally positive sustainable development indicators. On the other hand, there was little dialogue with civil society during the development of the strategy, the emphasis has been more on economic growth indicators than sustainability and environmental policies, and the National Council on Sustainable Development has been disbanded. Belarus is the only EaP country without a dedicated department or body dealing with climate change issues.

The general character of co-operation between Belarus and the EU could be characterised as restricted rapprochement – and it is a level of engagement that seems to suit the interests of both sides, even though the EU would be ready to move forward with deeper forms of co-operation if Belarus was more willing to implement substantive reforms in any sphere of co-operation.

The main obstacle to further development of co-operation remains the repressive political regime and the ongoing poor human rights situation in Belarus – fraught with the possible resumption of mass repression and a corresponding freezing of relations with the EU.

BELARUS

LINKAGE



APPROXIMATION



INTERNATIONAL SECURITY, POLITICAL
DIALOGUE AND CO-OPERATION

0.48



DEEP AND SUSTAINABLE DEMOCRACY
(DEMOCRACY AND HUMAN RIGHTS)

0.28



SECTORAL CO-OPERATION
AND TRADE FLOWS

0.35



EU INTEGRATION AND CONVERGENCE

0.42



CITIZENS IN EUROPE

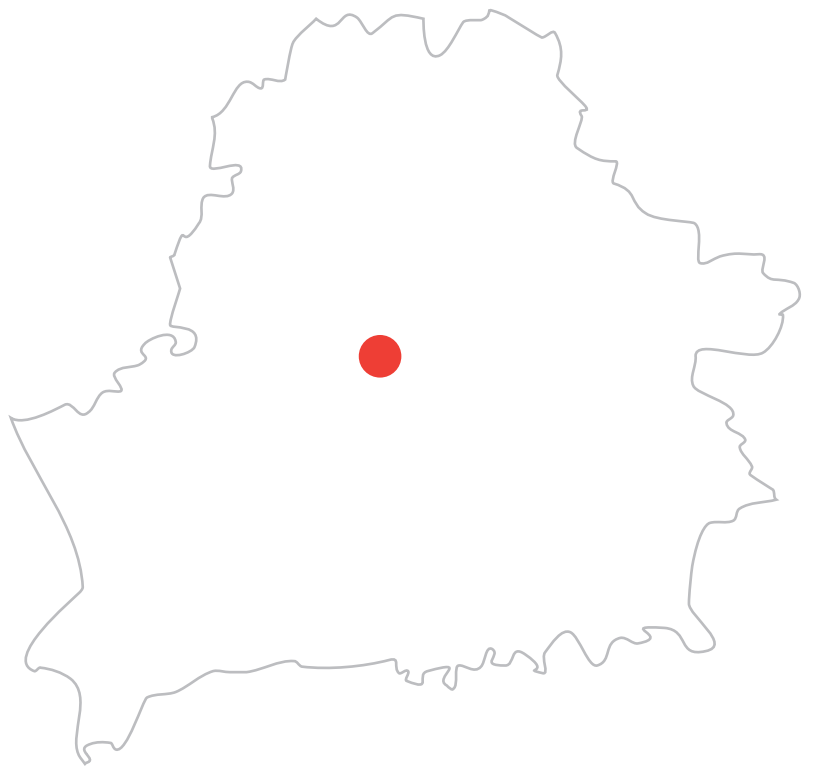
0.54



SUSTAINABLE DEVELOPMENT

0.64

BELARUS



SECTOR ASSESSMENTS

DEEP AND SUSTAINABLE DEMOCRACY (DEMOCRACY AND HUMAN RIGHTS)

MOLDOVA



0.71

GEORGIA



0.71

UKRAINE



0.70

DEMOCRATIC RIGHTS AND ELECTIONS,
INCLUDING POLITICAL PLURALISM

0.72

0.68

0.59

HUMAN RIGHTS AND PROTECTION AGAINST TORTURE

0.70

0.72

0.77

ACCOUNTABILITY

0.82

0.74

0.74

INDEPENDENT MEDIA

0.64

0.69

0.63

FREEDOM OF SPEECH AND ASSEMBLY

0.70

0.72

0.85

INDEPENDENT JUDICIARY

0.71

0.63

0.80

EQUAL OPPORTUNITIES AND NON-DISCRIMINATION

0.79

0.68

0.75

RULE OF LAW AND FIGHTING CORRUPTION

0.70

0.92

0.59

PUBLIC ADMINISTRATION

0.61

0.59

0.58

ARMENIA



0.58

AZERBAIJAN



0.32

BELARUS



0.28

DEMOCRATIC RIGHTS AND ELECTIONS,
INCLUDING POLITICAL PLURALISM

0.43

0.06

0.15

HUMAN RIGHTS AND PROTECTION AGAINST TORTURE

0.64

0.33

0.05

ACCOUNTABILITY

0.66

0.45

0.40

INDEPENDENT MEDIA

0.53

0.23

0.22

FREEDOM OF SPEECH AND ASSEMBLY

0.46

0.00

0.00

INDEPENDENT JUDICIARY

0.74

0.41

0.34

EQUAL OPPORTUNITIES AND NON-DISCRIMINATION

0.47

0.41

0.31

RULE OF LAW AND FIGHTING CORRUPTION

0.67

0.49

0.63

PUBLIC ADMINISTRATION

0.63

0.49

0.43

DEEP AND SUSTAINABLE DEMOCRACY (DEMOCRACY AND HUMAN RIGHTS)

DEEP AND SUSTAINABLE DEMOCRACY (DEMOCRACY AND HUMAN RIGHTS)

DEMOCRATIC RIGHTS AND ELECTIONS, INCLUDING POLITICAL PLURALISM

Three EaP countries – Azerbaijan, Belarus and Georgia – held parliamentary elections during 2015-2016. In November 2016, Moldova held its first direct presidential elections since 1996. While there were no national elections in Armenia in the reporting period, the legislative framework governing elections underwent major changes after citizens voted in December 2015 in a referendum to amend the constitution and move from a semi-presidential to a parliamentary system (to take effect in 2018). Ukraine had the opportunity to build on the progress of its 2014 presidential and parliamentary elections in the course of local elections held in October 2015.

Azerbaijan remained the worst performing country in terms of ensuring free, fair, and transparent elections, while some improvements were observed in Belarus. While Belarusian authorities exhibited a welcoming approach towards international observers,¹ the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) had no choice but to cancel its observation mission to Azerbaijan due to the restrictions imposed by Azerbaijani authorities.²

Repression against independent activists and restrictive legislation regulating non-

governmental organisations limited the ability of Azerbaijan NGOs to organise meaningful observation missions.³

The situation was somewhat better in Belarus, where the rights of observers were extended; however, excessive legal restrictions remained.⁴ Restrictions on fundamental freedoms of association, expression and assembly narrowed the public space and negatively affected the campaign environment in both of these worst performing EaP countries. Strict controls over state-owned and private media effectively limited the resources of the opposition candidates to reach citizens, depriving voters of the opportunity to make an informed choice in both Belarus⁵ and Azerbaijan.

While in Belarus international observers noted an overall increase in the number of opposition candidates, the situation worsened in Azerbaijan, where the opposition candidates were not allowed to register for the elections. Despite improvements, the OSCE/ODIHR noted that legal provisions for candidate registration continued to pose disproportionate and unreasonable barriers to candidacy in Belarus.⁶ In Armenia, Belarus and Azerbaijan, the predominance of pro-government nominees undermined trust in the impartiality of the election commissions.

In Armenia, the constitutional referendum in December 2015 was marred by allegations of fraud and manipulation. Domestic observers and media noted ballot box stuffing, vote buying, multiple voting, and fraudulent vote tabulation. The government initiated numerous investigations related to referendum fraud and violations; however, none resulted in prison sentences.⁷ The long awaited Electoral Code adopted in the reporting period did not create an even playing field, and the accuracy of voters' lists remained questionable despite the new regulations envisaged by the new legislation.

Although the record of Georgia, Moldova and Ukraine on free and fair elections remained much higher than for the other three EaP countries, shortcomings persisted. Voters' lists

1 *Parliamentary Elections 11 September 2016, OSCE/ODIHR Election Observation Mission Final Report*, 8 December 2016, p.1, <http://www.osce.org/odihr/elections/287486?download=true>

2 *Restrictions Imposed by Azerbaijan Compel Cancellation of Parliamentary Election Observation Mission, says ODIHR Director Link*, <http://www.osce.org/odihr/elections/azerbaijan/181611>

3 *Parliamentary Elections, 1 November 2015, OSCE/ODIHR, Needs Assessment Mission Report*, p.4, <http://www.osce.org/odihr/elections/azerbaijan/179216?download=true>

4 p. 3, supra, footnote 1

5 Ibid

6 footnote 1

7 *World Report 2017, Country Chapter of Armenia, Human Rights Watch*, <https://www.hrw.org/world-report/2017/country-chapters/armenia>

greatly improved in Ukraine, continuing the progress made in the 2014 presidential and parliamentary elections. The local elections in October-November 2015 were recognised by the OSCE/ODIHR as free and fair and generally compatible with international standards.⁸

In Georgia, the parliamentary elections were assessed as competitive and well administered, and fundamental freedoms were generally respected. There was confidence in the voters' lists, and "voting proceeded in an orderly manner, but counting was assessed negatively due to procedural problems and increased tensions".⁹ Despite the positive picture, violence at the polling stations, use of administrative resources, alleged voter intimidation and allegations of vote buying tainted the elections.

In Moldova, international observers noted that the run-off round of the presidential election was competitive and fundamental freedoms were respected;¹⁰ however, irregularities such as unbalanced media coverage, harsh and intolerant rhetoric, disinformation, involvement of the church, widespread abuse of administrative resources, lack of campaign finance transparency, and restrictions on citizens abroad casting their votes, marred the electoral process.

Georgia and Moldova have provision of both direct and indirect public funding to political parties. In the case of Moldova, a law on direct funding was introduced in 2015 and took effect in August 2016. Though positively assessed, the new law was conducive to maintaining the previous practices of financing political parties from obscure sources – not least the "dramatic increase of donation ceiling", while "the parties' financial reports for the first half of 2016 confirmed that money from obscure sources are distributed confidentially among parties' members and proponents who in their turn should 'donate' them to parties".¹¹

8 Ukraine. *Local Elections 25 October and 15 November 2015*. OSCE/ODIHR Election Observation Mission Final Report, 19 February 2016, <http://www.osce.org/odihr/elections/ukraine/223641?download=true>

9 Georgia *Parliamentary Elections 8 and 30 October 2016*, OSCE/ODIHR Election Observation Mission Final Report, p.3, <http://www.osce.org/odihr/elections/georgia/297551?download=true>

10 Moldova, *Presidential election – 30 October and 13 November 2016*, OSCE/ODIHR Election Observation Mission, Final Report, <http://www.osce.org/odihr/elections/moldova/300016?download=true>.

11 *Monitoring Public Policies in Moldova*, Eastern Partnership Civil Society Forum, Moldovan National Platform, Working Group 1, October 2016 – April 2017, <http://eap-csf.eu/wp-content/uploads/Moldova-EaP-CSF-monitoring-report-2017.pdf>

In Ukraine and Belarus, certain campaign activities are covered by the state budget, while in Armenia and Azerbaijan there is no financial support to political parties at all. Adequate sanctions to prevent vote-buying are a major issue for all six countries. Although all have regulations against vote-buying, their enforcement is superficial.

Guarantees of fair treatment of all political players competing in elections, including equal access to media outlets, and proper management of appeals and complaints through an inclusive, accessible system that processes complaints in a timely manner, are lacking in all six countries. While access to state-owned media during the campaign is guaranteed for electoral subjects in all EaP countries (except for Azerbaijan, where the opposition does not have access to state-owned media at all), it is implemented unevenly. The capacity of national independent media regulatory bodies to supervise media coverage and to impose sanctions for violations of media-related provisions of the election law needs to be increased in Georgia, Ukraine, Moldova and Belarus.

Georgia is the only EaP country that has properly addressed the issue of voting accessibility for people with disabilities, although Moldova and Azerbaijan¹² did make specific efforts to facilitate voting for persons with disabilities in the reporting period.

HUMAN RIGHTS AND PROTECTION AGAINST TORTURE

Although Belarus is the only country in Europe that retains the death penalty, in other respects it is overshadowed by the poor human rights record of Azerbaijan. While the release of several high-profile political prisoners in Azerbaijan in 2016 was seen as a positive sign by the international community, the repression of human rights defenders, opposition members, civil society activists and journalists continued in the reporting period.¹³ By the end of 2016, those behind bars included a leader of the opposition movement, youth activists, journalists and bloggers.¹⁴

12 Ibid, p.5, footnote 3

13 Azerbaijan Profile, *Freedom in the World 2017*, <https://freedomhouse.org/report/freedom-world/2017/azerbaijan>

14 Azerbaijan, *World Report*, Human Rights Watch, <https://www.hrw.org/world-report/2017/country-chapters/azerbaijan>

In Belarus, in contrast, the release of political prisoners, the peaceful character of parliamentary elections and the lifting of EU sanctions resulted in an intensification of bilateral contacts between Belarus and the EU, and the EU-Belarus bilateral Human Rights Dialogue resumed. However, at the end of 2016, at least one political prisoner remained behind bars.

Concerns regarding selective justice and claims that the prosecution of former officials has been politically motivated¹⁵ have tainted Georgia's image as a frontrunner of democratic transformation. Allegedly politically motivated arrests and prosecutions have been reported in Ukraine, Moldova and Armenia as well. According to Amnesty International, several prisoners of conscience in Crimea have been sentenced on trumped-up charges.¹⁶

Belarus is the only EaP country that has not ratified the European Convention on Human Rights and the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Azerbaijan, as a member of the Council of Europe, recognises the jurisdiction of the European Court of Human Rights, but it has been reluctant to comply with the decisions of the Court.¹⁷ Azerbaijan also failed to publish six Committee for the Prevention of Torture (CPT) reports.

Azerbaijan, Georgia, Moldova and Ukraine have functioning National Preventive Mechanisms (NPMs) according to the Optional Protocol to the UN Convention against Torture (OPCAT) criteria, and in Armenia the new Constitutional Law on Human Rights Defender, which entered into force in December 2016, addresses the issue of ensuring the proper functioning of the NPM and the Expert Council on Torture Prevention.

In all EaP countries, there are reports of cases of torture and ill treatment in police detention – of varying degree and scale. Ukraine and

Armenia have independent mechanisms outside the law-enforcement system to investigate cases of torture committed by law enforcers; however, their independence and effectiveness are limited, with few prosecutions resulting from their investigations. Amid concerns about failures to investigate torture and other cases of ill-treatment by law enforcement officers, the Georgian government omitted to bring forward legislation creating an independent investigation mechanism for human rights violations committed by law enforcement bodies.

The legislative framework and existing practices do not allow for the effective protection of the right to privacy in Georgia, where public figures have often been the targets of illegal surveillance administered or tolerated by the state. Neither Belarus nor Azerbaijan protects individual privacy, while the legislative framework does not guarantee full protection from illegal surveillance in Armenia and Moldova.

In the area of ratification of international legal instruments, Georgia was the leader among the six countries, closely followed by Ukraine and Moldova, then Armenia. Further behind, Azerbaijan had signed up to a number of international legal instruments, while Belarus was the most reluctant partner country in signing up to international human rights instruments.

ACCOUNTABILITY

A properly functioning system of checks and balances inevitably implies accountability of the executive to the legislative branch, ensuring that elected representatives of the public can effectively exercise control over the government. However, the Index data illustrates that further efforts of the EaP countries are required for a properly functioning system of checks and balances.

Legislators in Moldova, Georgia, Armenia and Ukraine have the power to conduct independent investigations into cases of abuse of power by executive institutions or officials though standing parliamentary committees or temporary investigative commissions. However, the operating procedures of the temporary investigative commissions are not clear in Ukraine and have not always proved

15 Georgia, *World Report*, Human Rights Watch, <https://www.hrw.org/world-report/2017/country-chapters/georgia>

16 *Ukraine 2016/2017*, Amnesty International, <https://www.amnesty.org/en/countries/europe-and-central-asia/ukraine/report-ukraine/>

17 Ilgar Mammadov, leader of the pro-democracy opposition movement, Republican Alternative (REAL), remained in prison despite the 2014 European Court of Human Rights decision on his case and repeated demands by the Council of Europe to release him, <https://www.hrw.org/world-report/2017/country-chapters/azerbaijan>

effective either in Armenia or in Georgia. From the standpoint of parliamentary oversight, Belarus and Azerbaijan remain the worst performers. The legislators of the two countries lack institutional powers to independently investigate cases of misconduct by the executive branch. According to the constitution, it is the privilege of the President of Belarus to exercise control over the agencies of coercion.

Only in the case of Moldova does the parliament have a standing committee on national security to ensure oversight over the national intelligence service. The Ukrainian, Georgian and Armenian parliaments could formally control the activities of law enforcement bodies via general mechanisms of parliamentary oversight; however, the effectiveness of such control is limited. For instance, in Georgia the parliamentary opposition attempted without success to summon the ministers of coercion to report at plenary sessions regarding inconsistent government responses to selected law enforcement cases.

The parliaments of Georgia, Moldova and Ukraine play an important role in the formation of governments. However, in Belarus, Armenia (prior to the new constitution that takes effect in 2018) and Azerbaijan, it is the President's exclusive authority to appoint and dismiss the members of the government. In Belarus, eight members of the upper chamber of the parliament are appointed by the President.

The parliaments of all six countries have formal rights to vote no confidence in the government, but these are limited in practice. In Belarus, the President can interfere in the process by dissolving the parliament. According to the constitutional amendments approved by referendum in September 2016, the President of Azerbaijan may dissolve the parliament when the latter fails to perform its duties, including in the sphere of law-making. This dangerously vague provision may be interpreted as allowing dissolution of the parliament whenever the president chooses.

Unlike in Azerbaijan, Armenia, Moldova and Ukraine, constitutional reform in Georgia does not require the approval of constitutional amendments by referendum.

The parliamentarians of all six countries can theoretically override presidential vetoes – however, in practice, the prospects of overruling a presidential veto are scarcely imaginable in

Belarus and Azerbaijan. In Georgia, following the parliamentary elections in October 2016, the ruling party – Georgian Dream-Democratic Georgia – held a constitutional majority and the parliament several times succeeded in overriding the veto of the President – who, although initially elected as a candidate of the Georgian Dream coalition, has parted from the parliamentary majority, especially over constitutional reforms (including plans to end direct elections for the post of President).

The parliaments of all EaP countries – except for Belarus – continue to benefit from institutional autonomy vis-à-vis the executive branch in relation to the distribution of financial resources necessary for their own operations. In Belarus, the President exercises control over the allocation of resources to the legislature.

INDEPENDENT MEDIA

According to Freedom House's *Freedom of the Press 2017* report, the six EaP countries have radically different media environments: some rank among the worst in the world, while others are making progress despite ongoing challenges.¹⁸ Georgia, Moldova and Ukraine were rated as Partly Free by Freedom House, while the remaining three EaP countries – Armenia, Azerbaijan and Belarus – were assessed as Not Free,¹⁹ with Azerbaijan scoring among the ten worst-rated states in the world.

On a scale from 0 (most free) to 100 (least free), Azerbaijan's score worsened from 89 in 2015 to 90 in 2016 as the authorities continued their repressive policy of silencing criticism and dissenting opinion. While Belarus remained in the group of worst performing countries, its score improved from 91 (in 2015) to 83 (in 2016), placing it in the category of "Biggest Gains".²⁰

Despite this positive trend, Belarus – alongside Azerbaijan – retains defamation as a criminal offence, punishable by a prison sentence and large fine. Dissemination of information that damages the honour and dignity of

18 *How Do Eastern Partnership Countries Rate on Media Freedom?* Jennifer Dunham and Elen Aghekyan, 6 August 2015, <https://freedomhouse.org/blog/how-do-eastern-partnership-countries-rate-media-freedom>

19 *Freedom of the Press 2017*, Freedom House, April 2017, <https://freedomhouse.org/report/freedom-press/freedom-press-2017>

20 Ibid

the President is a criminal offence in both countries, and bloggers and journalists received prison sentences in both countries during 2015-2016.

While Armenia remains at the top of the Not Free group,²¹ Armenian security forces brutally assaulted journalists covering peaceful protests, injuring at least eight of them.²² Georgia has been the frontrunner in terms of media freedom with the best score among the six EaP countries, followed by Ukraine and Moldova.²³ However, the governments' attitudes towards the media remained alarming in all three countries. Concerns persisted in Georgia over government interference with the country's most widely viewed television station, the privately owned Rustavi-2, and the concentration of three major TV channels (Maestro, GDS and Imedi) into one media holding.

Ukraine, faced with Kremlin-controlled outlets disseminating disinformation, introduced restrictions, limiting access to numerous Russian outlets, including independent Russian television station Dozhd. These restrictions, coupled with attempts to foster "patriotic" reporting, raised questions about the government's commitment to media autonomy.

According to the International Telecommunication Union, among the EaP countries, Azerbaijan has the highest percentage of its population using the internet (78%), followed by Belarus (71.1%) and Moldova (71%). In Georgia, at the other end of the spectrum, only half of the population uses the internet. Internet freedom is respected in Moldova with no reports of government censoring online content or monitoring private online communications.²⁴ While Georgia²⁵ and Armenia²⁶ generally respect internet freedom, human rights activists and opposition party

members in both countries raised concerns over the monitoring of e-mail and other online communications. Ukraine did not generally restrict content or censor websites or other communications and internet services,²⁷ but did ban public access to Russian social media platforms, news outlets, and a Russian search engine widely used in Ukraine.

Azerbaijan ranks as the worst performing EaP country in terms of ensuring internet freedom, intermittently blocking websites and denying access to internet-based resources of independent media outlets,²⁸ *inter alia* for publicising critical articles on proposed legislative amendments.²⁹ In the reporting period, there were strong indications that the government monitored internet communications of civil society activists.³⁰ The monitoring of e-mail and internet traffic was also reported in Belarus, where state companies and organisations use internet filters.³¹

FREEDOM OF SPEECH AND ASSEMBLY

Where association and assembly rights are concerned, Azerbaijan and Belarus remain the worst performing EaP countries, where the rights of citizens to join independent political or civic groups or assemble freely are not respected. Demonstrations or gatherings are regularly prohibited in central Baku, and the authorities closely monitor the organisers of, and participants in, rallies, launching various forms of oppression against them, including imprisonment, intimidation, and firing from employment. In 2015-2016, a sizeable number of independent NGOs had to suspend their

21 Ibid

22 *World Report 2017*, Country Chapter of Armenia, Human Rights Watch, <https://www.hrw.org/world-report/2017/country-chapters/armenia>

23 *Freedom of the Press 2017*, Freedom House, April 2017, <https://freedomhouse.org/report/freedom-press/freedom-press-2017>

24 *Moldova 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265662.pdf>

25 *Georgia 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265634.pdf>

26 *Armenia 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265604.pdf>

27 *Ukraine 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265696.pdf>

28 Access was blocked to the websites of Voice of America, Radio Free Europe/Radio Liberty (RFE/RL), and Germany-based opposition media outlet Meydan TV, source: *Azerbaijan 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265608.pdf>

29 *Azerbaijan 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265608.pdf>

30 Ibid

31 *Belarus 2016 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/265610.pdf>

activities due to the increased pressure.³² The government exercises unlimited discretion to decide whether to register foreign grants for NGOs.

In Belarus, freedom of assembly is tolerated only to the extent that it does not interfere with the goals of the authorities. According to the Bertelsmann Transformation Index, granting the right to assemble is liable to arbitrary decisions and manipulation by the governing authorities. The failure to register funding from foreign sources with the authorities can lead to imprisonment.

Compared with Belarus and Azerbaijan, Armenia scores higher, but the overall situation is assessed by international watchdog organisations as unduly arbitrary.³³ In the reporting period, authorities used excessive and disproportionate force against peaceful protesters, assaulted journalists, and pressed criminal charges against protest leaders and participants in demonstrations.³⁴

Ukraine has the best record on freedom of assembly, followed by Georgia and Moldova. In Ukraine, since the end of the Euromaidan, freedom of assembly has been widely respected,³⁵ however, in Georgia, the phenomenon of counter-demonstrations emerged, hindering minority groups from publicly expressing their opinions.³⁶ In Moldova, freedom of association remained stable in the reporting period, during which proposed legislative amendments to encourage the incorporation of new associations and the development of the non-governmental sector were not passed.³⁷

32 Bertelsmann Transformation Index 2016: Azerbaijan Country Report, February 2016, <https://www.bti-project.org/en/reports/country-reports/detail/itc/AZE/>

33 Bertelsmann Transformation Index 2016: Armenia Country Report, February 2016, <https://www.bti-project.org/en/reports/country-reports/detail/itc/ARM/>

34 Armenia, *World Report*, Human Rights Watch, <https://www.hrw.org/world-report/2017/country-chapters/armenia>

35 Bertelsmann Transformation Index 2016: Ukraine Country Report, February 2016, <https://www.bti-project.org/en/reports/country-reports/detail/itc/UKR/>

36 Bertelsmann Transformation Index 2016: Georgia Country Report, February 2016, <https://www.bti-project.org/en/reports/country-reports/detail/itc/GEO/>

37 Bertelsmann Transformation Index 2016: Moldova Country Report, February 2016, <https://www.bti-project.org/en/reports/country-reports/detail/itc/MDA/>

INDEPENDENT JUDICIARY

The independence of the judiciary remained problematic in most of the countries, but major progress was observed in Ukraine, where the parliament passed a significant judicial reform package in 2016. Overdue legislative amendments were passed in Georgia and Moldova; however, in both countries fundamental issues remained unresolved in the justice sector. In Georgia, the passage of the “third wave of judicial reform” was preceded by lengthy negotiations “behind closed doors” and political deals, including during the final, third hearing of the draft. In Armenia, public trust towards the impartiality of the courts continued to be low. Azerbaijan and Belarus remained the worst performers among the group, with largely corrupt and inefficient judicial branches.

Constitutional amendments introduced by the Ukrainian parliament in June 2016 brought the Superior Council of Justice into compliance with Council of Europe standards. In particular, according to the amendments, the majority of the Council members are judges and the Council is authorised to make decisions on the election, dismissal, transfer, promotion, and immunity of judges. Parliament and the President no longer have decisive roles in these processes, thus reducing the scope for political interference with the judiciary.³⁸

Judicial appointments, career advancement and the dismissal of judges were in the hands of judicial councils in Georgia, Moldova and Armenia; however, the power of the President of Armenia to approve lists of judicial appointments and make decisions on the advancement of judges fell short of Council of Europe standards and remained a matter of concern. While meeting the formal criteria of independence and impartiality, the judicial councils in Moldova and Georgia came under heavy criticism from civil society groups for judicial selection and appointment processes that were non-transparent and less merit-based in Moldova and “unfair, non-transparent, and unconstitutional” in Georgia.³⁹

No progress was registered in the process of the appointment of judges in Azerbaijan and Belarus, where there are no independent

38 *Ukraine 2016 Human Rights Report*, US Department of State, p. 12, <https://www.state.gov/documents/organization/265696.pdf>

39 *Georgia 2016 Human Rights Report*, US Department of State, p. 13, <https://www.state.gov/documents/organization/265634.pdf>

judicial councils⁴⁰ and the Presidents retained decisive roles in the process of selection and appointment of candidates.

The procedures by which judges are promoted within the judiciary lacked clear, detailed and objectively defined criteria in most EaP countries – with the exception of Ukraine. The Public Integrity Council, established by the new Law on Judiciary and Status of Judges, enables the participation of NGOs in the evaluation process of judicial candidates in Ukraine, and could serve as an example for other EaP countries.

In Moldova, while the Superior Council of Magistracy adopted formal criteria for the advancement of judges, it was not applied evenly. The criteria developed by the High Council of Justice of Georgia were also assessed as being arbitrary and unfair by NGOs. Though formal rules for the promotion of judges existed in Belarus, the main criterion for promotion was political loyalty. The final decision on the promotion of judges in Azerbaijan remained in the hands of the executive branch.

In most EaP countries, violations of ethics and gross violations of substantive and procedural law norms may result in the removal of judges. However, criminal investigation initiated against a Moldovan judge for allegedly illegal interpretation of the provisions of a law on a politically sensitive matter reflected a very dangerous pattern of political interference with the judiciary.⁴¹

With respect to the accountability and transparency of the judicial branch, Armenia operated a random case-selection mechanism in the courts. In Georgia, the introduction of an electronic system of case distribution was delayed. While Ukrainian law provided for an automated system of case distribution, in practice, opportunities for "manual" mode of case assignment remained.

40 There are concerns as to whether the Judicial Legal Council of Azerbaijan can be considered as an independent entity, viz. *The Functioning of the Judicial System in Azerbaijan and its Impact on the Right to a Fair Trial of Human Rights Defenders*, p. 24, September 2016, <https://www.nhc.nl/assets/uploads/2017/09/Functioning-of-the-Judicial-System-in-Azerbaijan.pdf>

41 *Independence and Accountability of Moldova's Judiciary under Threat*, Nadejda Hriptievschi, Legal Resource Centre/Soros Foundation Moldova, p.5, January 2017, <http://crjm.org/wp-content/uploads/2017/07/2017-04-Hriptievschi-judiciary.pdf>

Formally, court hearings are public in all EaP countries; however, there have been instances when the authorities tried to conduct justice behind closed doors. During 2015-2016, the public and the press were denied access to court proceedings in several high-profile cases in Moldova involving a former prime minister, current and former government officials, and bank officials.⁴² In Azerbaijan and Belarus, the right to a public trial remained illusory and there were cases in Georgia when courts were inconsistent in their approach to closing hearings to the public.

EQUAL OPPORTUNITIES AND NON-DISCRIMINATION

The adoption of comprehensive and effective legislation to guarantee equality and non-discrimination has been one of the main EU requirements for visa-free travel for the EaP countries. Three partner countries – Moldova, Georgia and Ukraine – showed progress in the area of non-discrimination. While adoption of the draft law on "Equal Rights" was one of the most important issues in the context of EU-Armenia co-operation, the Armenian authorities failed to propose a draft law in 2015-2016.

Moldova is the only country in the region with a specialised equality body – the Council on Ensuring Equality and Combating Discrimination. The Council, established under the anti-discrimination law, is composed of five members from civil society, appointed by the parliament, to investigate cases of discrimination. Georgia's law on the Elimination of All Forms of Discrimination ("Anti-Discrimination Law") provides definitions of various forms of discrimination, outlines protected characteristics, including gender identity and sexual orientation, and appoints the Ombudsman office as the national equality institution. Moldova mentions sexual orientation only in the Labour Code, while it does not feature at all in the law in Ukraine as a ground for discrimination.

While the law in Ukraine has undergone amendments broadening the list of responsibilities of the Ombudsman office, as well as its mandate in the sphere of non-

42 *Moldova 2016 Human Rights Report*, US Department of State, p. 11, <https://www.state.gov/documents/organization/265662.pdf>

discrimination and equality,⁴³ in Georgia the parliament did not act upon amendments to the Anti-Discrimination Law prepared by the Public Defender (Ombudsman) to effectively implement the Public Defender's functions as an equality institution.

All six countries have provisions prohibiting discrimination in their supreme laws. The constitutions of Georgia and Moldova contain an overarching requirement of equal treatment and do not prohibit discrimination per se, while the constitutions of other EaP countries explicitly prohibit discrimination. All the EaP countries guarantee protection from discrimination within their criminal laws, labour laws and education laws. Moldova, Ukraine and Georgia guarantee protection on the largest number of specific grounds – including gender identity and sexual orientation in the case of Georgia.

Ukraine, Moldova and Georgia keep the lists of protected grounds open in legislation, enabling courts to interpret the respective laws broadly. Armenia, Belarus and Azerbaijan have not provided the same scope of protection. Georgia, Ukraine and Moldova have clear definitions of direct and indirect discrimination and harassment. The latter is also defined and prohibited in Armenian law. Failure to provide reasonable accommodation is defined by the Moldovan and Ukrainian anti-discrimination laws, while all other countries fail to provide this guarantee. Moldovan and Georgian laws cover assumed discrimination, discrimination by association, and multiple forms of discrimination, while Ukraine prohibits assumed discrimination.

When it comes to enforcement mechanisms, all EaP countries except Moldova follow the same model of the Ombudsman office acting as the national equality body. In Ukraine, one of the four specialised departments within the Ombudsman office works on non-discrimination, gender rights, and children's rights. In Georgia, a specialised Equality Department within the Public Defender's Office has been created to deal with complaints on discrimination.

43 The Ukrainian Ombudsman can now deal with individual complaints regarding rights violations by both state bodies and private entities.

RULE OF LAW AND FIGHTING CORRUPTION

According to the Transparency International Corruption Perceptions Index (CPI) 2016, the scores of Belarus and Georgia considerably improved as compared against 2015. Minor improvements were registered in the scores of Ukraine and Azerbaijan, while the situation in Armenia and Moldova worsened. The major surprise was the equal scores of Moldova and Azerbaijan. According to the CPI, Georgia remained the frontrunner among the six countries. A new Law on Public Service – giving the power to the Public Service Bureau to monitor the asset declarations of public officials – was adopted in the reporting period; however, the new regulations entered into force only in July 2017.

Despite the deterioration in Armenia's score, legislative initiatives on illicit enrichment and on "whistleblowers", and the formation of a specialised anti-corruption body, have been recognised as important steps forward. Amendments ensuring higher levels of transparency and accountability in the course of procurement procedures were introduced to the law on public procurement by the end of the reporting period; however, in a step backwards, an exemption ruled that the Central Electoral Commission could implement public procurement without external controls.

The deterioration in Moldova's score was largely related to the US\$1 billion bank fraud revealed at the end of 2014 that seriously shook the financial, economic and political stability of the country. However, in 2016 the legislative framework for the elimination of corruption was significantly improved. A new law on the prosecution service and a package of laws on integrity was adopted.

The law on the prosecution service aimed at increasing the effectiveness of the Anti-Corruption Prosecution Office in investigating high-level corruption. However, questionable appointments at the Prosecution Office shortly after the law came into force undermined trust in the reform. The majority of the high-level corruption cases initiated in 2015-2016 were perceived as politically motivated. The purpose of the legislative package on integrity was to improve the effectiveness of the existing assets declaration system and strengthen the independence of the National Integrity

Authority. But the institutional reform launched in August 2016 stalled and created an institutional vacuum, rendering impossible the verification of assets declarations.

In the reporting period, Ukraine created a whole new system of institutions to prevent and prosecute corruption among governmental officials. In particular, the National Agency for Prevention of Corruption (NAZK), the Special Anti-Corruption Prosecutor's Office (SAP) and National Anti-Corruption Bureau of Ukraine (NABU) were created. In October 2016 Ukrainian officials submitted their first electronic assets declarations.

Another major breakthrough was the creation of a new system for public procurement ProZorro. However, the reform goals could not be fully accomplished without the creation of an Anti-Corruption Court – which was opposed by the ruling parties. The creation of the Anti-Corruption Court and maintenance of the independence of NABU, a condition of international donors, remained a political challenge throughout 2017.

The Supreme Audit Institution in Belarus does not enjoy independence even at the legislative level, as its head is appointed and dismissed by the President.

In Azerbaijan, though in theory independent, the Chamber of Accounts is under the direct control of the presidential administration. The institution lacks the technical capacity and resources to undertake quality public sector audits. Furthermore, its recommendations on public spending are rarely implemented by government agencies and, although brief summaries of its work are published, full reports are not publicly available. Public procurement is another corruption-prone area that has not been properly addressed. Furthermore, although legislation requires the disclosure of assets by public servants, supporting legislation and formal procedures are lacking, so this requirement has not been appropriately implemented.

Nearly all EaP states have a framework that mandates competitive procurement and, at least in the law, limitations on the use of sole-sourcing. The vast number of exceptions and the vagueness of the stipulations continued to curtail the effectiveness of these laws, however. The conviction of legal entities on bribery charges does not automatically disqualify them

from partaking in public procurement in most EaP countries. Where disbarment is mandated by the law (in Ukraine, Moldova and Armenia), there is little confidence that the regulation will not be sidestepped by the individuals and groups behind the culpable entities (they can set up new entities with a clean record).

While Supreme Audit Institutions exist in all six countries, most of them could not claim the full independence and clout necessary to ensure effective and impartial oversight over public finances. Georgia was the best performer, while Belarus and Azerbaijan were the worst two; however, even in better performing countries there was no guarantee that the findings of the Supreme Audit Institution would be acted upon.

Even though the systems and practices are imperfect in all six countries, there is room for sharing best practices among each other. Georgia's system of full public access to online procurement processes and results can be a useful tool for increased transparency elsewhere. Moreover, the Georgian Procurement Agency's openness to collaboration with civil society offers the potential for further strengthening both the integrity and trustworthiness of the system.

Trust and reputation could be further enhanced by effectively penalising entities involved in bribery. Clear legislation in this regard would be a good first step in all six countries.

PUBLIC ADMINISTRATION

Following the new Law on Civil Service in 2015, Ukraine now has the most developed institutional framework, as well as a clear-cut distinction between political and administrative categories of staff, and became the frontrunner among the EaP countries in terms of the impartiality and professionalism of the civil service.

Georgia and Armenia ranked as the leaders in terms of policy formulation and co-ordination. Armenia and Moldova were the two EaP countries with mandatory public consultations on legislative proposals. However, in Armenia, discussions do not take place until a draft has been developed. In Moldova, the Law on Transparency in the Decision-Making Process allows for consultations to a range of

forms, including public debates and hearings, and ad hoc task forces involving civil society representatives.

In Georgia, although there is no legal requirement to hold public consultations, standard practices include working group consultations and public hearings to consider draft laws. In Ukraine, draft laws must take into account the opinions of expert institutions and, when initiated by the government, public consultations are obligatory.

In Azerbaijan, the Law on Public Participation prescribes public consultation as one of the forms of public participation. In Belarus, legislation allows for participation in drafting legislation in the fields of entrepreneurship, the environment, youth, and social policy.

EU INTEGRATION AND CONVERGENCE

BUSINESS CLIMATE

In assessing convergence towards a market economy and economic performance, the Index addresses the business climate in the six countries and their progress in introducing and implementing reforms. The analysis draws on internationally recognised indicators, including the World Bank *Doing Business* rankings, the *European Bank For Reconstruction and Development (EBRD) Transition Reports*, and the *Global Competitiveness Report* of the World Economic Forum.

The relative ranking among the EaP countries in assessment of the business climate continued to show the three South Caucasus countries and Belarus all with a significantly more favourable business environment than Moldova and Ukraine.

Business opportunities differ significantly from one EaP country to another. Moldova trails behind all the others when it comes to **ensuring considerably easier conditions for starting a business**. According to 2016 data, the three South Caucasus countries require less time and fewer procedures to launch a business. These advantages enable Armenia, Georgia, Azerbaijan, and also Ukraine, to surpass the index's EU benchmark country, Lithuania, ranked 29 in the World Bank *Doing Business* classification.⁴⁴

A favourable business climate also depends on the **ease of insolvency resolution**, both in terms of time and costs. In 2016, Moldova registered better results than Lithuania, while Ukraine lagged behind as one of the least proficient insolvency resolving countries in the World Bank's classification.

When it comes to **facilitating payment of taxes**, Georgia joined the 22 friendliest tax payment countries worldwide, ahead of Lithuania, and followed by Moldova in 31st position and Azerbaijan in 40th place. Belarus, Armenia and Ukraine host much less attractive tax payment procedures. The strongest guarantees for **contract enforcement** are in Georgia, Belarus, Armenia and Azerbaijan, but they are far behind Lithuania.

Belarus has the lowest level of **private ownership**, since large-scale privatisation has not taken place. However, the other EaP countries have completed, or are undergoing, the privatisation of at least 25% of their state-owned enterprises.

According to EBRD data, **smaller-scale privatisation** has been a popular step in the EaP countries, with the exception of Belarus. The EaP countries trail behind Lithuania in both large- and small-scale privatisation, and also when it comes to **price liberalisation**. At the same time, the EaP countries have secured comprehensive price liberalisation, except in the case of Belarus where state procurement still takes place at non-market prices. Moldova, Georgia and Armenia use the most advanced **trade and foreign exchange systems**, while Belarus applies the least liberalised trade regime and a foreign exchange regime that is not fully transparent.

⁴⁴ <http://www.doingbusiness.org/rankings>

A key determinant of the business attractiveness of EaP countries is the degree of respect for **property rights**. In comparison with other EaP countries, Moldova and Ukraine have proved less reliable in ensuring property rights.

Competition policy is weak in all EaP countries regardless of the competition legislation and institutions that have been put in place. However, Belarus and Azerbaijan have the least developed competition policies. At the same time, the least effective **anti-monopoly policies** are observed in Moldova and Ukraine, while Armenia and Azerbaijan are close to the performance of Lithuania. The best **customs procedures** in the region are in Georgia.

According to the *EBRD Transition Report for 2015-16*, significant development in the **corporate sectors** of the EaP countries' economies took place in the telecommunications sectors in Moldova and Armenia, and in the general industry sector in Armenia. Belarus carried out less tangible reforms in industry and telecoms, and Azerbaijan in industry. Overall, the majority of the EaP countries engaged in reforming their corporate sectors.

The development in the **energy sector** was less dynamic. Multiple positive developments occurred in the field of electricity in Ukraine, Moldova, Georgia, and Armenia. Belarus registered the slowest pace of reforms in energy-related and infrastructure sectors. With regards to **infrastructure**, there was slow, modest progress in the water and waste-water systems in Georgia, and in the railways sector in Moldova. Effective reforms were introduced in the **banking and financial sectors** in Ukraine, and partially in Georgia and Armenia.

DCFTA

With the advent of the Association Agreements and Deep and Comprehensive Free Trade Area (DCFTA) agreements between three EaP countries and the EU, the index has evolved to ask more nuanced questions about various aspects of legal approximation, including for instance more details related to technical barriers to trade. The picture highlights continuing challenges, for instance to Ukraine and Moldova on customs and trade facilitation, and highlights that vis-à-vis free trade the level

of approximation of Armenia is much closer to the three AA signatories than to Belarus and Azerbaijan.

The deepening integration process within regional geopolitical projects considerably influences the developments related to trade, and in particular to the Deep and Comprehensive Free Trade Area (DCFTA) agreements. Correspondingly, in some areas, the national competences of some EaP countries have started to come under the purview of supranational authorities.

This situation pertains to Belarus and Armenia, whose **anti-dumping** competences were transferred to the Eurasian Commission when they joined the Eurasian Economic Union (EAEU). In contrast, Georgia implements no anti-dumping policies at all due to the full liberalisation of its trade policies, while Ukraine, Moldova and Azerbaijan have put in place both relevant anti-dumping legislation and institutions.

The majority of the EaP countries (the exceptions are Azerbaijan and Belarus) are members of the World Trade Organization (WTO) and implement the WTO **Technical Barriers to Trade** Agreement. This contributes to more foreseeable and interconnected trade flows, reduces costs, and increases access to markets.

International and EU standards comprise a large share of national standards in the EaP countries – Georgia (97%), Moldova (74%), Ukraine (60%), and Belarus (60%). This confirms their strong trade connections with the EU market. Despite the limited scope for impact on its modest industrial capacities, Moldova registered the maximum progress in adopting 100% of the **harmonised EU standards**, compared with Ukraine (38%), Georgia (32%), and 10% or less in the other EaP countries.

The more extensive application of international and European standards has increased integration with the EU market for Moldova, Ukraine and Georgia (the three countries to have signed Association Agreements and DCFTA agreements with the EU), and has reduced the application and coverage of the regional **GOST** standards in the post-Soviet space.⁴⁵ The share of GOST in Moldova fell

45 GOST standards (State Union Standards), originally developed by the government of the Soviet Union, became

to 24%, while Ukraine discarded all of them in 2015. Along with adopting EU standards, the EaP countries have transposed various EU **technical regulations** into their national regulatory framework. Moldova holds the leadership in this area (40 regulations), followed by Ukraine (36). The full application of these regulations remains a big challenge.

The EU does not automatically grant **conformity and acceptance** for industrial goods produced by EaP countries. All EaP countries, except Azerbaijan, are associated members of the European co-operation for Accreditation (EA).

This creates opportunities for the five countries to join the **EA Multilateral Agreement**, which will mean that their accreditation and conformity systems become equivalent and reliable for all EA members. Ukraine and Georgia both have bilateral agreements with the EA. Besides, the EaP countries actively participate in the European Committee for Standardization (**CEN**) as affiliated members, and are partially active in the body dealing with the European Committee for Electrotechnical Standardization (**CENELEC**). Having the affiliation status to these bodies, the EaP countries are formally seen as potential candidates for EU membership. Operators or state bodies in Ukraine, Georgia and Azerbaijan have secured full membership in the European Telecommunications Standards Institute (**ETSI**).

The attention of the EaP countries to **Sanitary and Phytosanitary Measures (SPS)** is consistent at the level of legislation and international commitments. Three EaP countries are part of the WTO SPS framework, while all of them implement the rules under **Codex Alimentarius, or "Food Code"**.⁴⁶ The application of **HACCP (Hazard Analysis and Critical Control Points)** is relevant for the members of the EAEU, the DCFTA countries,

regional standards after the disintegration of the USSR, and are now administered by the Euro-Asian Council for Standardisation, Metrology and Certification (EASC) under the auspices of the Commonwealth of Independent States (CIS). The GOST standards cover energy, oil and gas, environmental protection, construction, transportation, telecommunications, mining, food processing, and other industries.

⁴⁶ The Codex Alimentarius is a set of standards, and codes of practice adopted by the Codex Alimentarius Commission, established by the UN's Food and Agriculture Organization (FAO) and the World Health Organization (WHO) to protect consumer health and promote fair practices in the food trade.

and Azerbaijan. By using SPS principles, and securing the EU's approval, the majority of the EaP countries can achieve easier access to the EU market. Ukraine is the biggest exporter of **animal origin products** – seven categories of foodstuff – compared with Moldova and Belarus (four each), Armenia (three), and Georgia (two). However, apart from Ukraine, the rest of the countries export small volumes of such goods.

An important area for advancing foodstuff production and exports is the implementation of **systems of identification and traceability for animals**, which are in place only in four EaP countries. The food safety **warning systems** linked to those existent in the EU are not yet fully functional even in the DCFTA countries – Ukraine, Moldova and Georgia.

Simplified customs procedures, also implying **trade facilitation**, are largely applicable in all EaP countries, except Belarus that did not sign the WTO General Agreement on Tariffs and Trade (GATT). The simplified procedures include **customs clearance**, with green and blue lanes as a more advanced clearance form, and the introduction of **Authorised Economic Operators**, mainly for exports activity. Moldova has achieved the most visible results, followed by Ukraine and Georgia, while Azerbaijan started the preparations. Moreover, all EaP countries have set up **electronic customs systems**. Only Ukraine and Georgia apply a **one-stop shop** for customs procedures; the other countries are working on establishing one, or have in place only some elements.

In all EaP countries, the **services and establishments** sector has access to **electronic trade**, and to electronic tools such as **electronic signatures**. Due to international financial reporting standards reflected in the legislation of the EaP countries – with the exception of Armenia – local establishments can extend their activities beyond national borders and attract foreign investment. However, a large number of economic activities are tightly regulated and require **license issuing**, in particular in Georgia (88), Armenia (83) and Moldova (50).

Throughout the EaP region, independent national authorities are in place to oversee the banking sector, but a **safeguard mechanism** operates in only three countries (although these include Moldova which faced a huge banking crisis in 2014 and where the banking sector has suffered serious illegal money-laundering schemes).

There are **limitations on the movement of capital** in all EaP countries, as well as for **land and real estate** acquisitions. The most restrictive policies concerning capital transactions exist in Azerbaijan, and, at the other end of the spectrum, negligible or no restrictions in Belarus, Georgia and Armenia. Four of the EaP countries are included in the list of the countries with **low intellectual property rights protection** – Ukraine, Moldova, and Belarus.⁴⁷

Azerbaijan has the highest level of protection of intellectual property, but at the same time it is the only EaP country that lacks a **mechanism of protection** at border checkpoints. **Geographical indications** are available in the EaP region, but neither Belarus nor Azerbaijan protects EU geographic indications. Notably, the justice system poorly ensures the protection of intellectual property in almost all EaP countries, even though some progress in empowering the courts in this field has been observed in Georgia and Moldova.

A **competition** body regulating the market is missing in Belarus, while in Azerbaijan the corresponding body is only partially independent. The same body carries out supervision of **state aid to companies** and all spheres of the economy in Ukraine, Moldova and Armenia. Better enforcement of competition policy should also benefit from the **trainings for judges on competition policies** that are taking place in the three DCFTA countries – Ukraine, Moldova and Georgia.

FREEDOM, SECURITY AND JUSTICE

Moldovans have enjoyed visa-free travel to the Schengen countries since 28 April 2014, and were joined by Georgians on 28 March 2017 and by Ukrainians on 11 June 2017. Both Georgia and Ukraine fulfilled the **visa liberalisation action plans** agreed with the EU in 2016, and together with Moldova have to continue implementing the benchmarks agreed with the EU to keep in force the visa liberalisation regime. A less ambitious agreement on **visa facilitation** is in place between Armenia and the EU. Azerbaijan and Belarus are the only two EaP countries without agreements facilitating their citizens' travel to the EU.

A precondition for obtaining the visa facilitation and afterwards the visa liberalisation was to sign **readmission agreements** with the EU, successfully completed by Moldova, Ukraine, Georgia and Armenia. Azerbaijan joined this group in 2014, signalling its interest in a visa facilitation regime with the EU.

All EaP countries have developed **personal data protection** legislation and regulatory institutions, but in half of them – Belarus, Armenia and Azerbaijan – the national authority is partially dependent on other state institutions. As part of the visa liberalisation and facilitation process, Moldova, Georgia, Ukraine and Armenia all began to issue **biometric passports**. In the case of Moldova, the authorities have issued solely biometric passports since 2011. Azerbaijan started issuing biometric passports in advance of securing any visa-related agreement, leaving Belarus as the one country without biometric passports.

The most elaborated **civilian systems for migration surveillance** exist in Ukraine, Georgia and Moldova, and to some extent in Azerbaijan, where separate institutions, not ministries, deal with migration issues. A variety of separate laws, rather than a unified **migration policy**, is typical in the EaP region. **Humanitarian and refugee legislation** is in place in all EaP countries. Additionally, they have all ratified the **UN convention on refugees' status** and its protocol. Although national laws ensure the status of refugees, the **asylum infrastructure** requires significant improvement. **Migration profiles** are available in the majority of the EaP countries, although they need a thorough updating.

An **integrated border management** system is functional in all six EaP countries and relies in many cases on operational legal and institutional frameworks. In the case of Moldova, 99% of its borders have been **demarcated**. The figure is 66% for Ukraine. In contrast, the majority of the borders of the Southern Caucasus countries lack any demarcation at all. Ukraine and Moldova operate four **common border checkpoints, launched one at the Transnistrian segment of the bilateral border (Cuciurgan-Pervomaisk)**, and plan to extend this to all their checkpoints of international importance. Moreover, Moldova is planning to negotiate with Romania to establish common checkpoints, based on the “one-stop shop” principle.

⁴⁷ *Global Competitiveness Report*, <https://www.weforum.org/reports/global-competitiveness-report-2015>

The EaP countries have all ratified international and European conventions on **fighting transnational crime, and preventing human trafficking and smuggling**. Although all six countries fight against **money laundering**, at least two of them – Moldova and Azerbaijan – were struck by sophisticated international criminal money-laundering schemes. Azerbaijan and Belarus still have not ratified the Council of Europe **Convention on Laundering, Search, Seizure, and Confiscation** of the Proceeds from Crime and on the Financing of Terrorism.

A **mechanism for assisting the victims of human trafficking** is operational in all EaP countries, and long-term strategies for combating such crimes are in place or need updating. Likewise, the countries have in place strategic legal frameworks to prevent and fight drug addiction.

ENERGY: LEGISLATION CONVERGENCE AND ENERGY POLICY

The energy sector in the six EaP countries is subject to political influence and government interventions, which undermine the activities of **energy regulators**, affecting their integrity in setting **tariffs for energy-related services**. Nevertheless there is a positive trend towards implementing the **unbundling principle** in the electricity sector (although progress has been lacking in the gas sector), based on newly passed bills that reflect the provisions of the Third Energy Package.⁴⁸

Still, half of the EaP countries maintain a vertically integrated model in the gas sector, with Belarus and Georgia the most resistant to reforms. The **liberalisation of services** provided on the energy market is timid, which limits customers' opportunity to choose and change suppliers on a market model. The existing distribution and transmission infrastructure is available to suppliers, but only in the energy sector in Ukraine and Moldova, necessitating the further development of secondary legislation.

⁴⁸ The EU's Third Energy Package for an internal gas and electricity market in the EU came into force on 3 September 2009. It is designed to open up gas and electricity markets. The package includes ownership unbundling – the separation of companies' generation and sale operations from transmission network – and the establishment of national regulatory authorities.

The diversification of energy imports to EaP countries through **interconnections with the EU market** is in progress in Moldova and Ukraine, and Belarus is interconnected with the three Baltic states in the EU. While Moldova intends to connect both electricity and gas with Romania, Ukraine shows greater interest in gas supplies from the EU, and in increasing its power exports to Poland and Hungary.

Azerbaijan and Georgia are actively involved in the South Gas Corridor, which aims to deliver gas from the Caspian Basin to the EU. With EU financial support, Armenia and Georgia plan to build a mutual power interconnection.

Five EaP countries implement **energy efficiency** legislation - Ukraine, Moldova, Armenia, Azerbaijan and Belarus. Some have elaborated national strategic or operational documents focused on energy efficiency, and Ukraine, Moldova and Armenia have all set aside **dedicated funds** for the financing of energy efficiency.

ENVIRONMENT AND CLIMATE POLICY

All six countries either adopted, updated, or are preparing, a framework environmental policy, in the format of a strategy or programme, with strong legal status. However, to date only Ukraine made progress in setting measurable goals and objectives; in other countries, the policies are not measurable, or only partially. The existing strategic **documents contain fully or partially the planned institutional reforms and divisions of competence for environmental administration at national, regional, and municipal levels**, but procedures for decision-making and implementation, promotion of integration of environmental policy into other policy areas, and the identification of necessary human and financial resources, are less clear. Review mechanisms are also reflected only partially.

The **procedure of stakeholder involvement was assessed as satisfactory or partially satisfactory**, except in Georgia, which lacked public engagement during the policy preparation stage. **Typical gaps in stakeholders' involvement procedures concerned insufficient publicity for announcements of public consultations and**

limited feedback on their results. Only in the case of Ukraine did the authorities publish a **table outlining comments** included and not included, and an accompanying analysis with explanations.

National legislation in the majority of the six countries only **partially requires the obligatory integration of environmental policy into economic sectors' policies**, while **progress has been made by all countries on the adoption of the main horizontal instruments** of strategic environmental assessment and environmental impact assessment according to international standards. Gradual progress is being made in the preparation of sectoral environmental policies, for instance on water resources management, waste and natural resources management, nature protection, industrial pollution and chemicals.

The effectiveness of implementation of the aforementioned policies and laws remains to be seen not only because of institutional weaknesses, but also because the assessment systems are not in place. So, **out of 42 main UN Economic Commission for Europe (UNECE) environmental indicators**, Moldova provides statistics for only three, Azerbaijan eight, Georgia 12, Ukraine 17, and Belarus 26. Armenia, with 37 indicators, is the only country close to the benchmark (Lithuania with 42).

All countries ratified the Paris Agreement on Climate Change, but only Moldova adopted a national action plan on climate change mitigation in accordance with international obligations. In both Moldova and Armenia, a national strategy on climate change adaptation was adopted, but in the other countries strategies are at varying stages of preparation. **All six countries are working on developing sectoral strategies on climate change adaptation**, and all countries except Belarus have dedicated departments or bodies dealing with climate change issues.

The majority of countries are party to many multilateral environmental agreements (MEAs) and continue to ratify signed agreements. For instance, Ukraine and Moldova ratified the PRTR (Pollutant Release and Transfer Registers) and SEA (strategic environmental assessment) protocols to respectively the Aarhus and Espoo Conventions.⁴⁹

⁴⁹ The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters – known as the Aarhus Convention

Azerbaijan and Georgia are the least active in multilateral agreements. Although Ukraine no longer has non-compliance status within the Aarhus Convention, the country is still non-compliant towards the Espoo Convention, and Belarus is non-compliant with both conventions. Armenia entered the club of non-compliant countries within the Aarhus convention, a development that – on the positive side – is evidence of active civil society engagement.

Other countries were not determined by the Conventions' Meetings of Parties (MOPs) to be in non-compliance with environmental MEAs. Ukraine recently emerged from non-compliance under the Kyoto Protocol to the UN Framework Convention on Climate Change (FCCC) since its reporting on greenhouse gas (GHG) emissions was accepted as sufficient, but the majority of EaP countries need to improve their reporting on environmental MEAs, and at least to increase transparency and publish reports on the internet.

Legislation on prevention and control of invasive alien species is in place only in Belarus, Georgia and Ukraine, at the preparation stage in Moldova, and absent in Armenia and Azerbaijan. Only Ukraine (three) and Belarus (one) have established **UNESCO Transboundary biosphere reserves**, and only Ukraine has established **joint management bodies**. **Ukraine is the most active country in bilateral co-operation, having concluded almost 50% of the possible total number of agreements with EU and EaP countries.** Georgia is placed second with 36%, while the other countries have concluded between 20% and 30%. Azerbaijan is the least active in bilateral relations.

TRANSPORT

In the majority of the EaP countries (an exception is Georgia), the state has controlling ownership of, or (in the case of Moldova,

– established a number of rights of the public (to access to environmental information, public participation in environmental decision-making, and access to justice. See <http://ec.europa.eu/environment/aarhus/>. The Espoo Convention (Convention on Environmental Impact Assessment in a Transboundary Context) sets out obligations to assess the environmental impact of activities at an early stage of planning, and to notify and consult each other on major projects under consideration with the potential to have a significant environmental impact across boundaries. See <http://www.unece.org/env/eia/eia.html>

Armenia and Ukraine) awards concessions to operate, key transport networks (railway, seaports, in some cases also airports). This restricts the access to transport infrastructure **for third parties**, although these can provide some related services – renovations (roads), partial administration (railways), or handling services (airports and ports).

Unbundling is taking place in all transport sectors, and transportation has attracted numerous private-sector service-providers in all six countries. However, only the air transport sector has **an independent regulator** in all EaP countries. An **independent investigating body** for incidents related to all categories of transport exists only in Ukraine. In the rest of the countries, the line ministries or their affiliated institutions are in charge of incidents-related investigative operations. **Transport infrastructure modernisation** is underway in all six countries.

SUSTAINABLE DEVELOPMENT

SUSTAINABLE DEVELOPMENT POLICY

The adoption of the Sustainable Development Goals (SDGs) by the United Nations General Assembly in 2015, along with the adoption of Green economy policy guidelines and other decisions taken at the Rio+20 conference in 2012,⁵⁰ breathed fresh impetus into the sustainable development agendas of the Eastern Partnership countries.

50 The United Nations Conference on Sustainable Development – or Rio+20 – took place in Rio de Janeiro, Brazil, on 20-22 June 2012, and resulted in agreement on measures for implementing sustainable development, the decision to develop a set of Sustainable Development Goals, and the adoption of guidelines on green economy policies. <https://sustainabledevelopment.un.org/rio20.html>

Some of the six countries have indeed shown impressive progress in terms of adopting new, or updating existing, sustainable development strategies, as well as developing Green economy concepts and programmes.

Previously lacking institutional mechanisms for the implementation of sustainable development goals and objectives, these were established in 2016, in particular in Ukraine (high-level intergovernmental working group on SDGs' implementation) and Moldova (inter-ministerial working group on Green Economy). Armenia added to its already functioning National Council on Sustainable Development an inter-ministerial SDGs working group. However, the corresponding national councils in both Belarus and Georgia were disbanded, and Azerbaijan continues to lack a dedicated institution for sustainable development policies. As a consequence, for Belarus, Georgia and Azerbaijan, the decision-making power concerning SDGs implementation resides with the Cabinet of Ministers.

SUSTAINABLE DEVELOPMENT GOALS

The Eastern Partnership Index 2015-2016 is the first edition of the Index to take an in-depth look at the six countries' policies and performance on sustainable development, and in particular to conduct an assessment of the indicators measuring the status and implementation of the SDGs in the Eastern Partnership countries.

HEALTH AND POVERTY

The level of poverty remains a concern in Georgia and Armenia, as well as in rural areas in Moldova.⁵¹ In the case of Georgia, about 8.3% of the population are living on less than US\$1.90 per day, on top of which the country suffers the highest maternal mortality rate in the group (36 per 100,000 births).

Belarus stands out at the other end of the spectrum with fewer maternal deaths (four per 100,000) than the benchmark EU member-state, Lithuania (where there are 10 maternal deaths per 100,000 births). Belarus is also a leader in child healthcare as the mortality rate of children under five is likewise lower than

51 World Bank Open Data, <https://data.worldbank.org/>

in Lithuania. In contrast, the worst result in this category is in Azerbaijan with 32 deaths per 100,000 compared with fewer than five in Belarus.

All six Eastern Partnership countries have a lower suicide mortality rate than Lithuania. At the same time, according to the European Bank for Reconstruction and Development (EBRD), life satisfaction is the lowest among Ukrainians, while Belarusians are the happiest. According to the Human Development Index (HDI) of the UN Development Programme (UNDP), Belarus is again the highest placed, and Moldova the lowest.

EDUCATION AND LIFE-LONG LEARNING OPPORTUNITIES

To at least a partial degree, education for sustainable development is mainstreamed in national education policies, curricula, teacher education and student assessment in all six Eastern Partnership countries.

In Georgia, there is a special Centre for Environmental Education under the Ministry of Education and an Action Plan for Environmental Education for Sustainable Development. In Ukraine, there are special educational programmes devoted to sustainable development knowledge and skills – including environmental engineering, ecology, energy, and chemical. In Moldova, the school curriculum includes a mandatory civic education module that incorporates environment-related subjects. An optional module on ecological education was introduced in the school curricula for primary, secondary and high schools in 2015.

GENDER EQUALITY AND WOMEN'S EMPOWERMENT

According to the UNDP's Gender Inequality Index, the worst situation concerning gender inequality exists in Georgia, which ranks 70th in the world country ranking. Armenia and Azerbaijan are placed 61st and 68th respectively. At the other end of the spectrum, Belarus is placed 32nd, closer to the index's EU benchmark country, Lithuania, in 25th place.⁵²

⁵² <http://hdr.undp.org/en/data>

WATER AND SANITATION

All six countries enjoy good access to improved water, with Georgia and Armenia possessing 100% access, and Belarus and Ukraine only slightly less. Azerbaijan is the least connected with 87% and Moldova with 88.4% access. On access to improved sanitation, Moldova has only a 76.4% level of access in contrast with Ukraine with the highest access at a level of 95.9%.

SUSTAINABLE ECONOMIC GROWTH

In terms of **domestic material consumption**, the upward growth trend is clear for all countries. DMC distinguishes consumption driven by domestic demand from consumption driven by the export market. Combined with GDP, its dynamics could provide insight into whether there is a decoupling between the use of natural resources and economic growth. Only Belarus – the worst performer at 17.5 tonnes per capita – exceeds Lithuania's rate, the others ranging from Ukraine at 12.5 to Georgia at 6.8 tonnes per capita.

Another indicator of importance to sustainable development is the percentage of arable land area in a country. For instance, if the majority of the territory is arable land used for cultivation of crops, the environment is subject to soil erosion, surface water contamination through irrigation, and other negative impacts on biological and landscape diversity.

This indicator is included in the EaP Index alongside other indicators such as agriculture value added, which measures the "the value of the gross output of producers less the value of intermediate goods and services consumed in production, before accounting for consumption of fixed capital in production".⁵³ In short, this indicator shows the effectiveness of production in the agricultural sector. In the case of both Ukraine and Moldova, **the percentage of arable land area is worryingly high** at 56.2% and 55.3% respectively, exceeding Lithuania's 37.5%. The lowest percentage is seen in Georgia with only 6.6%. At the same time, the **highest agriculture value added** – 17.8% – is observed in Armenia, followed by Moldova and Ukraine

⁵³ World Bank data: <https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS>

on 14.3% and 13.7% respectively in spite of the fact that they have the highest percentage of arable area that should provide cause for concern for the resilience of their ecosystems. Georgia, on the other hand, combines a very low percentage of arable land with agriculture value added of only 9.3%.

The least sophisticated agriculture of the six countries is evident in Azerbaijan, but its 6.0% is still almost double the 3.3% rate in Lithuania (the low rate in Lithuania is mainly attributable to the persistence of comparatively high labour inputs).

The highest **unemployment rate** of 9.6% is registered in Armenia, where in addition only 52.5% are in employment. The lowest unemployment rate is in Moldova with only 0.2%, but this has to be set alongside the fact that Moldova has the worst **ratio of employment to population** with only 40%. The best proportion between unemployment (0.5%) and employed population ratio (60.4%) is observed in Belarus.

RESILIENT INFRASTRUCTURE, SUSTAINABLE INDUSTRIALISATION AND INNOVATION

Belarus and Azerbaijan have the **highest industry value added**, while **services value added** exceeds the industrial value added in all six countries except Azerbaijan. As with agriculture value added, the industry value added and services value added indicators demonstrate the effectiveness of production, as well as the level of productivity of the workforce. In addition, they indicate the quality of production equipment, the availability of necessary machinery and equipment, advanced technologies and innovative business models.

Moldova has the lowest industry value added at 14.3% and the highest services value added at 71.4%. The figures for both industry and services in Georgia, Armenia and Ukraine are comparable to the rate of Lithuania, ranging from 25.4-27.5% for industry and 59.2-65.4% for services value added.

All six countries have **low levels of research and development (R&D)** expenditures in comparison with Lithuania's 1% of GDP. The

highest rate of 0.7% is seen in Ukraine and Belarus, Moldova spend 0.4%, Armenia and Azerbaijan 0.2%, and Georgia a mere 0.1%. **All EaP countries score lower in the Global Innovation Index than Lithuania's** 42.25%, ranging from 30.1% in Azerbaijan to 40.5% in Moldova.⁵⁴

Internet use ranges from 50% of the population in Georgia to 78% in Azerbaijan (Lithuania has 74%), while **mobile broadband is blooming** with a range of 108-144 subscriptions per 100 population. The **quality of overall infrastructure** is best in Georgia and Ukraine (4.6 from a maximum of 7 points), 4.5 in Azerbaijan and 4.3 in Armenia, but substantially lower at 3.3 in Moldova (Lithuania scores 5.1).⁵⁵

ENSURE SUSTAINABLE CONSUMPTION AND PRODUCTION PATTERNS

Lithuania has a **material footprint** of 25 kg per US\$ of GDP, more than three times larger than the poorest performing EaP country, Ukraine, with 7kg/US\$, or Georgia on 6.76kg/US\$. Armenia and Azerbaijan have lower footprints at 4.83kg/US\$ and 4.47kg/US\$ respectively. The smallest material footprints are evident in Belarus (0.05kg/US\$) and Moldova (0.52/US\$).

A new SDG indicator of **food loss** will be introduced by the UN's Food and Agriculture Organization (FAO) in 2018, and can be included into future editions of the EaP Index. In terms of **sustainable public procurement**, drafting of regulations is now underway in Ukraine, Moldova, and Armenia.

54 <https://www.globalinnovationindex.org/>

55 Quality of overall infrastructure (1-7) <https://www.statista.com/statistics/264753/ranking-of-countries-according-to-the-general-quality-of-infrastructure/>

RESOURCE EFFICIENCY AND STATE OF ENVIRONMENT

The worst **Water Exploitation Index** scores of more than 50% are registered in Azerbaijan and Armenia, and their scores have significantly worsened since 2014 (the Water Exploitation Index measures water withdrawal as a percentage of annual long-term water resources).⁵⁶

In contrast, the index values fell in Belarus and Ukraine, although in the latter case the reasons were not directly connected with the effectiveness of water management, but to the absence of data from Russia-occupied Crimea and from previously heavily polluted regions of Eastern Ukraine held by Russia-backed secessionists. At 1%, the best performer, Belarus, scores better than Lithuania's commendable 1.8%.

In municipal waste intensity, Moldova has doubled its domestic waste production per capita and is by a long way the worst performer in the group, with almost double the level of Lithuania. With the exceptions of Ukraine and Azerbaijan, the countries experienced a **rising level of municipal waste production**. At the same time, their **share of municipal waste recycled** has also been growing, but not at the same pace. The most impressive growth in recycling was demonstrated by Moldova with a rise from 2% to 21% of municipal waste recycled, the highest rate in the six countries, albeit a long way from the 44% recycling rate in Lithuania.

The pressure on the environment is growing from the increasing discharge of non-treated water in all countries – at its highest in Georgia, where the share of non-treated waste waters in annual waste waters discharge is 34%. The other countries have levels lower than Lithuania's 23%. In Azerbaijan, the discharge is only 5%, while in Belarus almost all waste water is treated. There is a **trend of carbon emission reduction in EaP economies**, but this still falls short of Lithuania's benchmark. Moreover, increasing levels of sulphur dioxide and nitrogen oxide emissions suggest that the negative picture on emissions has not changed much.

An extremely **high level of soil erosion** is present in the countries with the largest percentages of arable land, namely Ukraine with 57.5% and Moldova with 43%. The growing rates in Georgia and Armenia, exceeding 30%, are also worrying, and Belarus is only a little better. Azerbaijan has about 15% with no change in comparison with previous assessment results, but all are far from Lithuania with only 0.02% soil erosion.

There is a **growing trend in pesticides inputs** among the six countries (except Armenia), which is especially worrying in countries with low agriculture value added like Moldova and Azerbaijan. With forestation, the **trend of reduction in forests** is demonstrated for Ukraine and Belarus, while the latter has a 2.5 times larger forest area than the former. In the majority of the EaP countries, **nature protected areas are slowly growing** in size, ranging from 5.7% in Moldova to 13% in Armenia.

INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION

The years 2015-2016 perpetuated the division of the Eastern Partnership countries into two groups in terms of geo-political orientation – those countries that seek an EU membership perspective in the long term and those that do not. Ukraine, Moldova and Georgia belong to the former group while Belarus, Armenia and Azerbaijan make up the latter group.

This has been especially evident in the contractual frameworks for the respective EaP countries governing their relations with the EU. Ukraine, Moldova and Georgia signed and began to implement Association Agreements

⁵⁶ <https://www.eea.europa.eu/data-and-maps/indicators/water-exploitation-index>

with the EU, and pursued visa liberalisation dialogue with the EU (Moldova was granted a visa-free regime to the Schengen area in 2014, and Georgia and Ukraine have enjoyed visa-free travel since March and June 2017 respectively).

In contrast, Armenia and Azerbaijan still rely on Partnership and Co-operation Agreements (PCAs) with the EU (both agreements signed back in 1999), while Belarus has had no framework agreement with the EU since its PCA was frozen in 1997. Both Armenia and Azerbaijan rejected Association Agreements with the EU, in the case of Azerbaijan not willing “to be subjected to the EU’s political normative agenda”.⁵⁷ While Ukraine considers the EU to be lacking ambition in the scope of its European integration plans, Armenia and Azerbaijan opted out of a more demanding “upgraded” contractual framework.

Both Armenia and Azerbaijan started negotiations on new agreements with the EU in 2015 – in the case of Armenia, a Comprehensive and Enhanced Partnership Agreement, and for Azerbaijan a Strategic Modernisation Partnership agreement (SMP). Interestingly, both groups try to make the most of the “differentiation” principle of EU policy towards partner countries, outlined in the European Neighbourhood Policy’s 2015 policy review.⁵⁸

Ukraine, Moldova and Georgia seek to tailor the Eastern Partnership to their European integration aspirations. Armenia, following its last-minute withdrawal from signing an Association Agreement, seeks to reconcile closer linkages with the EU with its membership in the Russia-led trade bloc, the Eurasian Economic Union. Azerbaijan is trying to accommodate its own preferences and downplay the EU’s focus on democracy and human rights. In turn, Belarus continues to play an “outsider” role in EaP on numerous co-operation levels, although the newly founded EU-Belarus Co-ordination Group was launched in 2016 and held two meetings the same year.

57 "Strategic Partnership Agreement: A New Chapter in EU-Azerbaijan Relations" Ilgar Gurbanov, Eurasia Daily Monitor, 22 June 2017, <https://jamestown.org/program/strategic-partnership-agreement-new-chapter-eu-azerbaijan-relations/>

58 Review of the European Neighbourhood Policy, European Commission and EU High Representative for Foreign Affairs and Security Policy, 15 November 2015, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/151118_joint-communication_review-of-the-enp_en.pdf

POLITICAL DIALOGUE

Ukraine continues to be the front-runner in terms of political dialogue with the EU. It is still the only country that holds an annual summit with the EU. It also remains the champion in term of high-level contacts (both in terms of visits from top EU top officials – closely followed by Azerbaijan – and visits of Ukraine’s officials to Brussels – closely followed by Georgia).

Ukraine also featured as the focus of more European External Action Service statements than other EaP countries. Ukraine was the focus of 59 EEAS statements in the reporting period. These focused principally on two subjects: the conflict situation in Eastern Ukraine and progress in implementing reforms. Azerbaijan was the focus of the second highest number of statements – 33 – a major share of which were critical of its human rights record (also temporarily freezing the negotiations on SMP).

Ukraine and the EU also have the largest number of MPs involved in the Parliamentary Co-operation Committee on both sides – 32, with Moldova and Georgia having 27 MPs on both sides. At the other end of the spectrum, Belarus has none. Likewise, the EU-Ukraine Co-operation Committee met four times, the EU-Moldova and EU-Georgia Co-operation Committees three times each, and the EU-Armenia and EU-Azerbaijan Co-operation Committees once each.

However, in terms of political dialogue at the Association Council (AC) level, Ukraine, Moldova and Georgia rub shoulders. In the reporting period, the EU-Georgia AC met three times, the EU-Ukraine AC met twice, and the EU-Moldova AC met once.

The number of Association subcommittees (created after the signature of the Association Agreements to replace co-operation subcommittees) was rearranged, such that Ukraine has two (of which the subcommittee on economic and other sector co-operation comprises six clusters, which are equivalent to six subcommittees under PCA), Moldova has seven and Georgia has 11 subcommittees. The intensity of the subcommittees’ meetings was equally high, with Ukraine holding nine meetings, Georgia 10 and Moldova 13.

The EaP political parties’ representation among the European Parliament party groups remains

high and diverse. This level of co-operation is by far the most attractive to various political groups in the EU, as parliamentary and extra-parliamentary parties, ruling and opposition parties alike, claim affiliation with EP party groups. Ukraine, Moldova and Georgia have seven affiliated parties each, Armenia has six, Azerbaijan two and even Belarus has five affiliated parties. In comparison with previous years, Moldova and Azerbaijan both showed a decrease in the number of affiliated parties, while the other EaP countries all showed an increase.

INTERGOVERNMENTAL CO-OPERATION AND ENGAGEMENT IN EAP MULTILATERAL EVENTS/PANELS

The human rights issue remains an important track in EU co-operation with all EaP countries, although the intensity and the format differ among the partner countries. Ukraine, Moldova, Georgia, Armenia and Belarus participated in Human Rights Dialogue (HRD) meetings: Ukraine held two meetings in the studied period and the other four countries held one each. In the case of Ukraine, the country demonstrated some progress in the human rights realm within the implementation of the Visa Liberalisation Action plan, including the adoption of legislation on non-discrimination. However, human rights violations in Crimea and the territories outside the Ukrainian government's control in the Donetsk and Luhansk regions have featured on the EU-Ukraine agenda.

The reporting period also witnessed the resumption of the HRD format with Belarus, which had been suspended in 2009, and one HRD meeting took place in 2016. Human rights are also a constant agenda item for the meetings of the EU-Belarus Co-ordination Group. The EU and Azerbaijan discussed human rights within the meetings of the subcommittees on Justice, Freedom and Security. The violations of the rights of, political prisoners, and restrictions on media freedom were also addressed during the visits of EU officials to Azerbaijan and of Azerbaijani officials to the EU.

INTERNATIONAL SECURITY CO-OPERATION AND BORDER SECURITY

Within the framework of the EU's Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), some important developments have taken place in the region, mainly pursuant to the Russian aggression in Ukraine. In 2014, Ukraine became a host country to a CSDP mission, the EU Advisory Mission (EUAM) Ukraine, established with the objective of strengthening Ukraine's civilian security sector.

Ukraine remains the leader in co-operation with the EU within CFSP/CSDP, as the only EaP country that holds official consultations with both the EU Military Committee (EUMC) and the EU Political and Security Committee (PSC). Ukraine has an Administrative Agreement with the European Defence Agency and takes part in three EU Battlegroups.

However, after numerous years as the most prolific contributor to CSDP missions elsewhere, Ukraine participated in no CSDP missions in 2015-2016, while Moldova and Georgia participated in two and four CSDP missions respectively. Ukraine is the frontrunner among the EaP countries in co-operation with NATO, being the only NATO partner that participated in all major NATO-led operations and missions.

In the wider security picture, after the Russian aggression in 2014, Ukraine became the latest piece of the "puzzle" which makes the Eastern Partnership (except Belarus) "a ring of fire", with four frozen conflicts (Transnistria in Moldova, Abkhazia and South Ossetia in Georgia, and now the annexation of Crimea) and three low-intensity conflicts (the occupied territories of Donetsk and Luhansk oblasts in Ukraine and Nagorno-Karabakh in Azerbaijan) in the EU's Eastern neighbourhood.

The size of the territories outside the governments' control in these countries varies, from 7.2% in Ukraine to 20% in the case of both Georgia and Azerbaijan. Only Belarus and Armenia have no foreign armed forces stationed on their territory without the government's consent.

Russian troops are present in Crimea and the occupied parts of the Donetsk and Luhansk regions, as well as in Transnistria and in

Abkhazia and South Ossetia, while Armenian forces are stationed in Nagorno-Karabakh. Russian troops are also stationed in Belarus and Armenia, but with the consent of the host governments.

“Militarisation” of the region is also evident, especially in the case of Ukraine, which increased its military spending from roughly 1% of GDP in 2013 to 4% of GDP in 2015. Azerbaijan and Armenia also demonstrated high defence expenditure, reaching 5.6% and 4.2% of GDP respectively in 2015.

In terms of sheer size of defence forces (military personnel, battle tanks, aircraft, airports,) Ukraine, – the largest country – outnumbers all other EaP countries. However, in the size of its defence forces per capita, Ukraine trails behind four of the other EaP countries, and Armenia has by far the largest defence force per capita, followed by Georgia and Azerbaijan.

In terms of border security, all EaP countries have Frontex agreements with the EU,⁵⁹ but only Ukraine has established Joint Customs and Border Controls with both an EU neighbour (Poland) and a non-EU neighbour (Moldova).

EU FUNDING OF SECURITY PROJECTS

All three countries in the “European integrationist” EaP group currently face conflicts with Russia-backed secessionists on their territory. Against the background of these conflicts, the EaP countries are not only security partners (as participants in CSDP missions), but also security consumers (as recipients of such missions themselves). In addition to the EUAM, there is the EU Monitoring Mission in Georgia and a “hybrid” EU Border Assistance Mission to Moldova and Ukraine (EUBAM).

Finance-wise, the EU has invested into the operation of these missions, and also funded the destruction of PFM-1 series ammunition (anti-infantry land mines) in Belarus and the chemical, biological, radiological and nuclear risk mitigation programme in Georgia. In terms of the ratio of security project funding to overall EU support, Moldova ranks highest with 22%,

59 Frontex (the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union) was set up in 2004 to reinforce and streamline co-operation between national border authorities, www.frontex.europa.eu

while in Ukraine the ratio is a meagre 1%. It is noteworthy that officially the EU denies that it implements and supports any kind of security projects in Ukraine whatsoever.⁶⁰

SECTORAL CO-OPERATION AND TRADE FLOWS

TRADE IN GOODS AND SERVICES

The EU continues to feature as a key trade partner of the EaP countries. In trade in goods, the EU is the number one partner for four countries – the three countries that signed Association Agreements with the EU (Georgia, Moldova and Ukraine) and Azerbaijan. The EU remained the second largest partner for Belarus, trailing behind Russia, which accounts for more than 50% of Belarus's trade. In 2014-2016, Russia also became the largest trade partner for Armenia, surpassing the EU. For Ukraine and Moldova, Russia is the second largest partner, while for Georgia and Azerbaijan, Turkey is the second largest. China accounts for 5-9% of trade of the EaP countries.

In 2014-2016, the importance of trade with the EU increased for Georgia, Moldova and Ukraine, partly a consequence of the launch of the Deep and Comprehensive Free Trade Area (DCFTA) agreements with the EU.⁶¹ Another important factor was the drop in trade with Russia amid the introduction of multiple trade restrictions.⁶² In contrast, the share of the EU in the trade turnover of Armenia, Azerbaijan and Belarus was somewhat reduced.

60 Author's correspondence with an EU official, June 2017.

61 For Ukraine, the implementation of the DCFTA was preceded by the autonomous trade measures applied in April 2014 - December 2015, and replicated the tariff liberalisation provision of the DCFTA.

62 <https://www.ceps.eu/publications/russia%E2%80%99s-punitive-trade-policy-measures-towards-ukraine-moldova-and-georgia>

SHARE OF COUNTRY'S COMMODITY TRADE TURNOVER, % (2014-2016 AVERAGE)

| TRADE PARTNER | UKRAINE | MOLDOVA | BELARUS | GEORGIA | ARMENIA | AZERBAIJAN |
|----------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| EU | 37.7 | 52.5 | 25.7 | 29.2 | 24.9 | 42.1 |
| RUSSIA | 11.6 | 12.7 | 50.5 | 9.4 | 27.3 | 11.6 |
| OTHER EAEU COUNTRIES | 6.2 | 3.7 | 1.0 | 5.5 | 0.9 | 1.4 |
| TURKEY | 4.2 | 5.5 | 1.6 | 16.3 | 3.3 | 13.1 |
| CHINA | 8.6 | 6.7 | 4.9 | 7.7 | 9.0 | 5.5 |
| IRAN | 1.0 | 0.0 | 0.1 | 1.4 | 4.8 | 1.2 |

Source: UN ComTrade

In exports of goods, the EU remained the leading destination for all EaP countries except for Belarus, which supplies more to Russia. However, export shares are quite different. For Moldova and Azerbaijan, exports to the EU account for more than 50% of total exports, while for other EaP countries the shares are smaller – 34% for Ukraine, 28% for Armenia and Belarus, and 26% for Georgia.

Moldova and Ukraine have the largest – and growing – shares of imports from the EU. The change is the most noticeable for Ukraine, reflecting the major change in energy policy of the country, namely the cessation of gas imports directly from Russia and the reorientation towards the EU market. In trade in services, the importance of the EU has been high for Moldova, Ukraine and Belarus, largely due to transportation services.

The share of the EU in trade in services ranged from a dominant 80% for Moldova to the still substantial 35% for Belarus and Ukraine. The Southern Caucasus countries trade much less in services with the EU, with the level ranging from 21% for Georgia to 11% for Armenia. From the perspective of the EU, the EaP countries remained very small in terms of total trade turnover. Ukraine was the largest partner among the six, accounting for 0.8% of the EU's total trade in goods and 0.2% of trade in services. Azerbaijan was the second largest EU partner in trade in goods (0.4%) and the third in trade in services (0.05%). On the contrary, Belarus was the third in trade in goods (0.3%) and the second in trade in services (0.1%).

Ranked by trade value, in 2016 Ukraine scored the highest at 27th place among the EU's partners in trade in goods. Armenia was the smallest partner, ranking 111th.

TRADE REGIME

Currently, four EaP countries enjoy duty-free or almost duty-free access to the EU market – the three DCFTA countries and Armenia, which is eligible for the GSP+ trade regime in the EU.⁶³ Belarus and Azerbaijan are not eligible for preferential access to the EU market. Belarus was removed from the GSP due to labour rights violations, and Azerbaijan recently graduated from the GSP after reaching a higher income economy status. In trade with these two countries, the EU applies the most favoured nation (MFN) trade regime.⁶⁴

Four EaP countries – Armenia, Georgia, Moldova and Ukraine – recently changed their tariff regimes vis-à-vis the EU. Armenia increased its MFN tariffs towards the EU after it joined the Eurasian Economic Union (EAEU) in January 2016. In contrast, the other three countries reduced their tariffs, albeit at different speeds. EU exports to Georgia become duty-free immediately after the launch of the DCFTA in September 2014. The tariff liberalisation introduced by Ukraine and Moldova in the framework of their DCFTAs has been more gradual.

By mid-2017, there were only a few trade defence measures in place concerning trade between the EU and the EaP countries. The EU applied two anti-dumping measures against Ukraine, one against Armenia and one against Belarus, and faced one anti-dumping measure in Belarus.

⁶³ GSP+ is a special incentive arrangement for Sustainable Development and Good Governance, granting "full removal of tariffs on over 66% of EU tariff lines". <http://trade.ec.europa.eu/tradehelp/gsp>

⁶⁴ "Most favoured nation" (MFN) status conveys trade advantages such as low tariffs. MFN is one of the cornerstones of World Trade Organization (WTO) trade law.

Azerbaijan and Belarus are only two EaP countries that are still not members of the World Trade Organization (WTO). Azerbaijan applied for WTO membership in 1997, and by mid-2017 the country had signed five bilateral protocols out of 21 negotiated, and held 14 rounds of multilateral talks in Geneva. The recognition of the "developing country status" (DCS) of Azerbaijan has remained one of the most critical issues of the talks.⁶⁵ The DCS status provides certain privileges to a WTO country-member – prolonging implementation periods, increasing the de minimis level of agricultural support, and providing special assistance. Azerbaijan aims to get DCS for the country as a whole or at least in certain areas, in particular agriculture.

Belarus submitted its WTO membership application in 1993, but the negotiations process has been irregular. Active talks resumed in 2017, with an intensified schedule of both bilateral and multilateral meetings. Belarus reported about 14 concluded bilateral market access agreements, four of which were finalised in 2017. After the WTO accession of Kazakhstan in November 2015, Belarus remained the only member of the EAEU that was not a member of the WTO.

65 <http://www.wto.org/indexENG.htm>

CAPITAL FLOWS

The EU generates significant capital inflows into the region in the form of foreign direct investment (FDI) and loans. The EU is the largest investor into the economies of Ukraine (69% of inward FDI) and Azerbaijan (56%). Georgia (33%) and Moldova (31%) also receive a large share of their FDI from the EU. Belarus and Armenia attracted much less FDI from the EU (22% and 8% of total inward FDI respectively), both relying instead on much higher investment inflows from Russia.

Other investors are much less active in the entire region. Turkey is an important investor for Azerbaijan (17%) and Georgia (8%), but not in the other EaP countries. While China plays a noticeable role in trade in goods, its role as a foreign investor is negligible.

Both the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) are active in the region. The EBRD is operational in all six countries, while the EIB is engaged five (the exception being Belarus).

In terms of the number of loans received from the EBRD, Ukraine is the leader. As of mid-2017, there were 172 active EBRD projects in the country, 27 having been launched in 2015 or later. In Georgia, there were 73 active projects, of which 15 had been launched in 2015 or later. Azerbaijan and Moldova had the lowest number of active projects - 50 and 44 active

FOREIGN DIRECT INVESTMENT. SHARE OF FDI FROM DIFFERENT COUNTRIES/ GROUPS OF COUNTRIES, %, LATEST AVAILABLE YEAR

| SOURCE COUNTRY/ GROUP OF COUNTRIES | UKRAINE | MOLDOVA | BELARUS | GEORGIA | ARMENIA | AZERBAIJAN |
|---------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| EU | 69.2 | 30.5 | 22.4 | 32.7 | 7.6 | 56.4 |
| RUSSIA | 11.6 | 21.7 | 61.0 | 5.0 | 53.0 | 4.0 |
| OTHER EAEU COUNTRIES | 0.3 | 1.1 | 0.0 | 0.0 | 0.0 | 0.0 |
| TURKEY | 0.8 | 0.8 | 0.0 | 8.0 | 0.0 | 17.0 |
| CHINA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 2.0 |
| IRAN | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 8.0 |

Sources: for Ukraine and Moldova – national statistics,
for Belarus, Georgia, Armenia and Azerbaijan – UNCTAD Bilateral FDI Report

projects respectively. Five and six projects had been signed in or after 2015 in Azerbaijan and Moldova respectively.

Ukraine was also the largest recipient of EBRD funds in terms of the absolute value of investments. EBRD cumulative investments into Ukraine totalled € 11.6 billion, about three times more than in Georgia (€ 2.8bn). However, in terms of per capita investments, the funds that poured into the Georgian economy were much more significant. Ukraine received € 264 per capita, while Georgia attracted € 573 per capita. The EBRD invested € 362 per capita into Armenia and € 329 per capita into Moldova.

A similar situation is observed if the portfolio of EIB loans is examined. While Ukraine is the largest recipient of loans in absolute terms (both in terms of number and value), Georgia is the leader in terms of loans per capita, receiving almost three times as much support in relative terms. Moldova also receives more loans per capita than Ukraine.

The number and value of the EIB projects in Azerbaijan is much lower than in other EaP countries (except Belarus, which does not receive any EIB loans). The EIB has had altogether four projects in Azerbaijan, including two ongoing projects.

ENERGY

The energy sphere is a key strategic area of co-operation in the region. The EaP countries and the EU have strong links in energy trade. For Belarus, and especially Azerbaijan, the EU is the largest importer of energy projects. Azerbaijan supplies over 97% of its energy exports to the EU, largely to Italy, Germany and Spain. Belarus exports to the EU half of its total exports of energy products, primarily to the UK and the Netherlands.

Ukraine, Moldova and Georgia are net importers of energy products from the EU. The key change occurred in Ukraine, which reoriented its gas imports, replacing Russia with the EU market as its supplier. All three AA/DCFTA countries are members of the European Energy Community, and these three countries are actively involved in interconnection projects with the EU concerning electricity and pipelines. Azerbaijan

is also actively involved in projects aimed to strengthen energy interconnections with the EU, given the importance of the EU as an energy consumer. Recently, several pipelines were constructed to link Azerbaijan with the EU through Georgia.

On the contrary, neither Belarus nor Armenia are involved in energy-related interconnection projects with the EU.

All six EaP countries are formally participating in the key multilateral frameworks related to energy: the work programme of the EaP Thematic Platform 3 “Energy Security”, the Baku Initiative, INOGATE Programme, and Black Sea Synergy.

TRANSPORT

Although transportation links are key to fostering economic linkages in the region, the EaP countries have not fulfilled the potential of existing opportunities. Ukraine, Moldova and Belarus have direct land borders with the EU that have simplified transport interconnections, but in the South Caucasus the situation is more complicated. Georgia has a direct sea connection with the EU, while both Azerbaijan and Armenia ship their products via other countries – primarily Georgia – to supply them to the EU.

Only two of the six EaP countries – Georgia and Moldova – have signed and started application of the Common Aviation Area Agreements (CAAA) with the EU. Ukraine completed talks several years ago, but the ratification of the Agreement by the EU is still pending. Armenia signed a CAAA with the EU at the Eastern Partnership summit in Brussels on 24 November 2017. Azerbaijan is negotiating a CAAA, while Belarus has not entered into negotiations.

None of the EaP countries is participating in the Blue Belt Pilot project launched by the European Maritime Safety Agency (EMSA) to reduce the administrative burden on the short sea shipping sector.

The level of membership in European transport organisations remains moderate with only Ukraine and Moldova participating in more than half of them.

Moreover, the EaP countries have lower scores in the Logistics Performance Index (which measures the capacity of countries to efficiently move goods and connect with international markets) than EU member-states: the best placed EaP country, Ukraine, has a score of 2.7 out of a maximum five compared with 3.6 for Lithuania.⁶⁶

CITIZENS OF EUROPE

The differentiation process among the six EaP countries is evident in the people-to-people indicators in the Index, most markedly in the case of the three countries that began to implement Association Agreements with the EU and completed Visa Liberalisation Action Plans, but with Armenia on an equal footing in the case of cultural exchange and co-operation in science and education.

CULTURAL EXCHANGE

Georgia enjoyed the highest cultural exchange with the EU among the EaP countries during 2015-2016, implementing the most bilateral and multilateral projects through the support mechanisms provided by the EU Eastern Partnership Culture and Creativity Programme. At the same time, Armenia was the leading participant in European Training Foundation projects, and Moldova participated in the most European Cultural Foundation projects. Georgia and Armenia participated in the most youth mobility projects per capita.

CO-OPERATION IN SCIENCE AND EDUCATION

When it comes to co-operation in science and education indicators, Georgia and Moldova were the leading countries in terms of engagement with the EU. Moldova, Georgia and Armenia registered the highest numbers per capita in capacity-building projects (Erasmus+), while

⁶⁶ <http://lpi.worldbank.org/>, <http://lpi.worldbank.org/international/global>

Armenia and Georgia were engaged in the most youth mobility (Erasmus+) projects per capita.⁶⁷ In Erasmus Mundus, Armenia had the highest numbers of student participants per capita.⁶⁸ However, all six countries had at least one academic Jean Monnet chair or one academic Jean Monnet module, a positive development in comparison with the situation at the time of the previous Index.

MOBILITY, INCLUDING ACADEMIC AND STUDENT MOBILITY

The numbers of citizens travelling to the EU grew as more favourable visa conditions intensified ties. However, after excluding Moldova whose citizens no longer required visas from 2014, citizens of Ukraine received the largest number of Schengen visas, while citizens of Belarus were granted the highest number of Schengen visas per capita. Azerbaijan held the last place with the least EU visas granted to its citizens.

A regulatory framework for student mobility was in place in Ukraine, Moldova and Georgia during the period of 2015-2016, but in the other three EaP countries it remained at the intention or declaratory level.

COMMUNICATION AND INFORMATION SOCIETY

When compared against Lithuania as a benchmark, the six EaP countries are highly connected, with Azerbaijan leading even Lithuania in terms of the percentage of the population using the internet. All six EaP countries are active participants in the HDM panel initiative (Harmonisation of Digital Markets), a part of the Eastern Partnership multilateral architecture.

⁶⁷ Erasmus+ is an EU programme "to support education, training, youth and sport in Europe". https://ec.europa.eu/programmes/erasmus-plus/about_en

⁶⁸ Erasmus Mundus is a co-operation and mobility programme in the field of higher education that "aims to enhance the quality of European higher education and to promote dialogue and understanding between people and cultures through cooperation with third countries". The programme provides support to higher education institutions, individual students, researchers and university staff, and organisations active in the field of higher education. http://eacea.ec.europa.eu/erasmus_mundus/programme/about_erasmus_mundus_en.php

THE METHODOLOGY OF THE INDEX

HOW IS 'EUROPEAN INTEGRATION' MEASURED?

The Eastern Partnership Index combines indicators from existing sources with first-hand empirical information gathered by local country experts within the networks underpinning the EaP Civil Society Forum (CSF). This general design makes it possible to use the best existing knowledge and to improve this body of knowledge by focused, systematic data-collection that benefits from the CSF's unique access to local knowledge in the EaP countries.

However, expert surveys are prone to subjectivity. Many existing expert surveys are characterised by a mismatch between "soft", potentially biased, expert opinions and "hard" coding and aggregation practices that suggest a degree of precision not matched by the more complex underlying reality. The expert survey underlying the Eastern Partnership Index therefore avoids broad opinion questions, and instead tries to verify precise and detailed facts, following a methodological strategy pioneered by the World Bank's Doing Business Survey.

Most survey questions ask for a "Yes" or "No" response to induce experts to take a clear position and to minimise misclassification errors. All questions invite experts to explain and thus to contextualise their response. In addition, experts are requested to substantiate their assessment by listing sources.

The survey is implemented by six country and six sectoral co-ordinators who supervise and assist the data collection and evaluation in the following sectors: deep and sustainable democracy (democracy and human rights); EU integration and convergence; sustainable development; international security, political dialogue and co-operation; sectoral co-operation and trade flows; citizens in Europe.

Firstly, the country co-ordinators ask local sectoral experts to evaluate the situation in their country on the basis of the questionnaire. These experts and the sectoral co-ordinators co-operate to ensure cross-country consistent assessments.

Secondly, the sectoral and country co-ordinators review the ratings and underlying rationales provided by the local experts. These reviews serve to clarify assessments where necessary, to compare the ratings across countries, and to revise ratings in consultation with local experts. This process facilitates a mutual understanding between experts and co-ordinators in order to improve the reliability and validity of the assessments.

Thirdly, sectoral and country co-ordinators draft narrative reports comparing the assessments for each country and (across all countries) sector. These drafts and the data scores are reviewed by a set of peer reviewers for each country and sector. Finally, the data scores and narrative reports are reviewed and edited by the Index core team.

As a rule, all questions to be answered with yes or no by the country experts are coded 1 = yes or positive and 0 = negative with regard to the aggregate concepts of the Index: deep and sustainable democracy, European integration, and sustainable development (labelled "1-0"). If the expert comments and the review process suggest intermediate scores, such assessments are coded as 0.5. For items requiring numerical data (quantitative indicators), the figures are coded through a linear transformation, using the information they contain about distances between country scores. The transformation uses the following formula:

$$y = \frac{x - x_{\min}}{x_{\max} - x_{\min}}$$

where x refers to the value of the raw data; y is the corresponding score on the 0-1 scale; and x_{\max} and x_{\min} are the endpoints of the original scale, also called "benchmarks". We preferred this linear transformation over other possible standardisation techniques (e.g. z-transformation) since it is the simplest procedure.

For items scored with 0-1 or the intermediate 0.5, benchmarks are derived from the questions, assigning 1 and 0 to the best and worst possible performance. Since benchmarks

for quantitative indicators often lack intuitive evidence, they have been defined by assigning the upper benchmark to a new EU member state. Lithuania was chosen as the benchmark country because it shares a post-Soviet legacy with EaP countries and, as the largest Baltic state, resembles EaP countries most with regard to population size. In addition, the selection of Lithuania reflects the idea that the target level for EaP countries should neither be a top performer nor a laggard, but rather an average new EU member state with both strengths and weaknesses. Being the sixth among 13 new EU member states in terms of economic wealth (per capita GDP in purchasing power standards in 2015 according to Eurostat), Lithuania epitomises this idea relatively well. Moreover, considerations of data availability favoured the choice of a single country rather than determining median values for all new EU member states.

The lower benchmark is defined by the value of the worst-performing EaP country in 2014. To enable a tracking of developments over time, we chose 2014 as the base year for defining benchmark values. This year represents a critical juncture for the EaP countries because three countries signed Association Agreements with the EU, and Ukraine was fundamentally transformed by the Revolution of Dignity, the annexation of Crimea, and the war in its eastern parts. In those rare cases when the values of an EaP country exceeded the upper benchmark or fell below the lower benchmark, the upper and lower scores were set to 1 and 0 respectively. All benchmark values and standardisation procedures are documented in an excel file that is available on the EaP Index website.

The Eastern Partnership Index 2015-2016 measures the situation of EaP countries as of December 2016, or the latest data available up until that point. Thus, the measurement is status-oriented, making it possible to identify the positions of individual countries compared with other countries for the different sectors and questions.

HOW IS THE INDEX CALCULATED?

Aggregating scores is necessary to arrive at an Index or composite indicator. However, aggregation implies decisions about the

relative weight of components that need to be explained. The Eastern Partnership Index consists of two dimensions, which are further disaggregated in sections, subsections, categories, subcategories and items. The different levels of disaggregation are designated by numbers such as 1.1, 1.1.1 etc. This hierarchical structure reflects theoretical assumptions about the components and boundaries of concepts. One could, for example, argue that free and fair elections constitute the core of democracy and should therefore be given a higher weight than the category of Freedom of Speech and Assembly. Conversely, one could also argue that democracy in most EaP countries is mainly impaired by unaccountable governments and the lack of independent media, while elections are more or less well organised.

Since it would be difficult to establish a clear priority of one or several components over others, we decided to assign equal weights to all components. Equal weighting of components is also intuitively plausible since this method corresponds to the conceptual decision of conceiving, for example, the concept of democracy as composed of a variety of attributes placed on the same level. Equal weighting assumes that all components of a concept possess equal conceptual status and that components are partially substitutable by other components.

An arithmetical aggregation of components is, strictly speaking, possible only if components are measured on an interval level, that is, we know that the scores of items, subcategories, categories, sections and dimensions contain information on distances. Most numerical data are measured at interval level: in these cases, we know, for example, that a share of EU exports amounting to 40% of GDP is twice a share of 20% and that this ratio is equal to the ratio between 60% and 30%. For the yes-no questions and items measured with other ordinal scales, we have information only about the ordering of scores, not about the distances between scores.

For example, we do not know the distance between a yes and a no for the question regarding parties' equitable access to state-owned media. Neither do we know whether the difference between yes and no for this question is equivalent with the difference between yes

and no for the subsequent question asking whether political parties are provided with public funds to finance campaigns.

In principle, this uncertainty would limit us to determining aggregate scores by selecting the median rank out of the ranks a country has achieved for all components (assuming equal weighting). This would, however, imply omitting the more detailed information contained by the numerical items. To use this information and to put more emphasis on big differences between countries, we have opted to construct quasi-interval level scores by adding the scores of items measured at ordinal level. This has been a standard practice in many indices and can also be justified by the rationale behind equal weighting.

Given the frequent uncertainty about the importance of components for aggregate concepts, the safest strategy seems to be assigning equal status to all components. Equal status suggests assuming that a score of 1 used to code a positive response for one question equals a score of 1 for another positive response. Moreover, equal status means that all components constituting a concept are partially substitutable. The most appropriate aggregation technique for partially substitutable components is addition.

Since the number of items differs from subcategory to subcategory and, since we want to apply equal weighting, we have standardised the subcategory scores by dividing them through the number of items. Thus, the subcategory score ranges between 1 and 0 and expresses the share of yes-no questions answered positively in terms of the aggregate concept (and/or the extent to which numerical items or ordinal-level items are evaluated positively).

Quasi-interval level scores allow a range of aggregation techniques at higher levels of aggregation (categories, sub-sections, sections and dimensions). The most important methods are multiplication and addition. Multiplication assigns more weight to individual components, emphasizing the necessity of components for a concept; in contrast, addition facilitates the compensation of weaker scores on some components by stronger scores on other components, emphasizing the substitutability of components for a concept.

We apply an additive aggregation of subcategories, categories and sections because this approach fits to the method used on the item level, reflects the substitutability of components, and is less sensitive with regard to deviating values on individual components. To standardise the aggregate sums and ensure equal weighting, arithmetical means are calculated. An aggregate score is thereby calculated for each of the two dimensions of **Linkage** and **Approximation**. This method reflects the conceptual idea that the two dimensions are interdependent and jointly necessary for progress in European integration.

Aggregation levels, aggregate scores, individual scores and the underlying raw data are documented in an excel file that can be downloaded from the Index website.

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EASTERN PARTNERSHIP CIVIL SOCIETY FORUM

The Eastern Partnership Civil Society Forum (EaP CSF) is an umbrella organisation for more than 700 civil society organisations from the six Eastern Partnership countries and the EU. Launched in 2009, the Forum provides a platform for interaction between the EU and Eastern partner civil society organisations, and aims at facilitating reforms in the EU's Eastern partners and bringing them closer to the EU.

The Forum operates as an independent, transparent, and inclusive actor to secure changes on key policy areas across the four Eastern Partnership thematic platforms, in which the Forum has a permanent participant status. On the national level, the Forum aims to strengthen diversity and plurality of public discourse and policymaking in the Eastern partner countries by holding governments accountable and protecting and promoting fundamental freedoms, participatory democracy and human rights.

www.eap-csf.eu



OPEN SOCIETY FOUNDATIONS

The Open Society Foundations (OSF) work to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people. The Foundations seek to strengthen the rule of law; respect for human rights, minorities, and a diversity of opinions; democratically elected governments; and a civil society that helps keep government power in check. The OSF implement initiatives to advance justice, education, public health, and independent media.

Working in every part of the world, the OSF place a high priority on protecting and improving the lives of people in marginalized communities.

www.opensocietyfoundations.org



INTERNATIONAL RENAISSANCE FOUNDATION

International Renaissance Foundation (IRF) is the largest Ukrainian charity organisation that promotes civil society development in the country. The IRF is a part of the Open Society Foundations (OSF) network founded by American financier and philanthropist George Soros. Its main objective is to provide financial, operational and expert support for open and democratic society development in Ukraine. IRF initiates and supports key civic initiatives, which foster the development of civil society, promote rule of law, independent mass media, democratisation of education and public health, advancing social capital and academic publications, and ensuring protection of national minority rights and the integration of minorities into Ukrainian society.

IRF's European Programme was established in 2004. The goal of the programme is to promote Ukraine's European integration by providing financial and expert support to relevant civil society initiatives.

www.irf.ua



Ministry of Foreign Affairs
of the Czech Republic

MINISTRY OF FOREIGN AFFAIRS OF THE CZECH REPUBLIC

Czech Foreign Policy and the Eastern Partnership

The Czech diplomacy dealt with strengthening of the Eastern dimension of the European Neighbourhood Policy long before the Czech EU Presidency in 2009. Since the Prague summit, the Czech Republic actively supports the implementation and further development of the Eastern Partnership and is actively involved in the debate on the EaP within the European Union. Active Czech policy in the EaP region is based on Czech national interests and know-how of Czech diplomacy, private companies and civil society organisations. It is further strengthened by the fact that the Foreign Ministry has established diplomatic missions of the Czech Republic in all six partner countries.

Support to civil society in the partner countries is among the key priorities of the Czech foreign policy. The Foreign Ministry inter alia supports projects implemented by non-governmental organisations from the partner countries through the Transition Promotion Programme, which is a financial instrument for democracy assistance established by the Ministry of Foreign Affairs of the Czech Republic in 2005. There is also an Eastern Partnership Facility aiming at supporting projects with “the EaP appeal”. Small local projects are implemented by the Czech Embassies in the EaP countries as well.

www.mzv.cz



NEW EUROPE CENTER

New Europe Center is a think tank in Ukraine (Kyiv) developing analytical research and conducting project activities to promote European standards and practices in Ukraine, as well as to increase support for Ukraine’s European and Euro-Atlantic prospects among opinion leaders and officials of the EU and NATO. The strategic priorities of New Europe Center are the following:

- strengthening the effectiveness of Ukraine’s foreign and security policy;
- communicating European and Euro-Atlantic choices in Ukraine; and
- communicating Ukraine in Europe and the USA.

www.neweurope.org.ua



INSTITUTE OF WORLD POLICY

The Institute of World Policy was established in late 2009 as an independent think-tank. During 2010-2016, the Institute has gained a good reputation and the trust of not only Ukrainian expert circles and decision-makers, but also foreign diplomatic and expert communities. IWP has become distinctive among think-tanks through its high-quality analysis of Ukraine’s foreign policy and regional security, combined with proactive and results-oriented campaigns.

www.iwp.org.ua





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