



## Council of Europe Action Plan for Ukraine 2018-2021

Document prepared by the Office of the Directorate General for Programmes

### Executive summary

The Council of Europe Action Plan for Ukraine 2018-2021 is a strategic programming instrument which aims, through co-operation, to accompany the country in its efforts to bring legislation, institutions and practice further into line with European standards in the areas of human rights, the rule of law and democracy and, through this, to support the country in meeting its obligations as a Council of Europe member State.

The Action Plan priorities take into account relevant Court judgments, decisions, resolutions, recommendations, conclusions of reports and opinions, notably of the Committee of Ministers (CM), the Parliamentary Assembly (PACE), the Congress of Local and Regional Authorities (Congress), the Commissioner for Human Rights (the Commissioner), the European Commission for Democracy through Law of the Council of Europe (the Venice Commission), the Consultative Council of European Judges (CCJE), the European Committee of Social Rights (ECSR), the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Prosecutors (CCPE), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Commission against Racism and Intolerance (ECRI), the Group of States against Corruption (GRECO), the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the Committee of the Parties to the Convention on the Protection of children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA). They reflect Ukraine's reform priorities and needs, as defined by the authorities in relevant national strategic documents and commitments, including within the process of the European integration.

In this Action Plan, the Council of Europe and Ukraine have agreed to jointly carry forward, through co-operation programmes, the reforms aiming to enhance the independence and effectiveness of the justice system, to harmonise the application of European human rights standards, to strengthen the parliamentary capacity, to improve governance at all levels, to combat corruption and money laundering, to fight ill-treatment and impunity, to protect prisoners' rights, to increase quality and access to legal aid, to protect the human rights of Internally Displaced Persons (IDPs), to enhance the protection of minorities and to counter discrimination on all grounds, to prevent violence against children and promote child rights, to increase access to public information, to protect personal data and to improve independence of the media and safety of journalists. It has also been agreed to promote gender equality and to enhance the civil society's role in the reform processes.

Since the Maidan events in 2013-2014, the situation in Ukraine continues to be marked by important security, economic and political constraints, relating also to the illegal annexation of the Autonomous Republic of Crimea and the conflict in eastern Ukraine. It is understood that such challenges have had an impact on the pace of reforms. Other challenges are related to the wide-spread corruption, the persistent lack of public trust in the justice system, lack of efficiency of public administration at central and local levels as well as the lack of institutional capacity to conduct reforms. Progress in bringing Ukrainian legislation and institutions in line with European standards has been significant since 2014, as evidenced by the reforms of the judiciary, sectorial decentralisation and amalgamation of communities, public broadcasting reform and the establishment of a legal and institutional framework to fight corruption. The present Action Plan builds on achievements of the previous Action Plan 2015-2017.<sup>1</sup> The outcomes of the latter include the improvement of legislation in key areas. These *inter alia* concern the functioning of the judiciary and criminal justice systems, prosecution service, investigation of ill-treatment, execution of criminal sanctions, protection of the rights of IDPs, increased quality of and access to free legal aid, strengthened capacity of the Verkhovna Rada of Ukraine to supervise the implementation of the European Court of Human Rights judgments, and the preparation of the ratification package of laws for the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

The overall budget of the present Action Plan is €29.5 million. Funding amounting to €2.8 million has been secured.

The Council of Europe and Ukraine will continue co-operation to ensure the effective implementation of the existing legislative frameworks and to enhance the capacities of national institutions in bringing the country's legislation and practice closer to European standards in order to promote human rights, strengthen the rule of law and ensure democratic principles of governance.

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<sup>1</sup> <http://intranet.coe.int/jahia/webdav/site/IntranetDGAL/shared/ODGPROG/AP%20Ukraine%202015-17.pdf>

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**List of acronyms and abbreviations**

Action Plan	Council of Europe Action Plan for Ukraine 2018-2021
CCJE	Consultative Council of European Judges
CCPE	Consultative Council of European Prosecutors
CEPEJ	European Commission for the Efficiency of Justice
CM	Committee of Ministers of the Council of Europe
Congress	Council of Europe Congress of Local and Regional Authorities
CPT	Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
EDC/HRE	Charter on Education for Democratic Citizenship and Human Rights Education
ESC	European Social Charter
ECSR	European Committee of Social Rights
EU	European Union
FCNM	Framework Convention for the Protection of National Minorities
FLA	Free legal aid
GRECO	Group of States against Corruption
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
GRETA	Group of Experts on Action against Trafficking in Human Beings
IC	Information Commissioner
IDP	Internally Displaced Person
HCJ	High Council of Justice
HELP	European Programme for Human Rights Education for Legal Professionals
Lanzarote Committee	The Committee of the Parties to the Convention on the Protection of children against Sexual Exploitation and Sexual Abuse
NABU	National Anti-Corruption Bureau of Ukraine
NACP	National Agency on Corruption Prevention
NAPA	National Academy of Public Administration
NAPU	National Academy of Prosecutors of Ukraine
NGO	Non-governmental organisation
NHRS	National Human Rights Strategy
NPU	National Police of Ukraine
NRC	National Reform Council
OB	Ordinary budget
ODGP	Office of the Directorate General of Programmes
ODIHR	Office for Democratic Institutions and Human Rights
Ombudsperson	The Ukrainian Parliament Commissioner for Human Rights
OSCE	Organisation for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PGG	EU/Council of Europe Eastern Partnership for Good Governance Co-operation Framework
PIC	Public Integrity Council
SBI	State Bureau of Investigation
The Commissioner	Council of Europe Commissioner for Human Rights
VC	Voluntary contribution
Venice Commission	European Commission for Democracy through Law
Verkhovna Rada	The Parliament
UN	United Nations
UNDP	United Nations Development Programme

## Part I – Introduction

### 1. General overview

#### Ukraine and the Council of Europe

Ukraine joined the Council of Europe on 9 November 1995 as its 37<sup>th</sup> member State. Accordingly, it has entered into, and has agreed to honour, a number of specific commitments which are listed in the Parliamentary Assembly (PACE) Opinion 190 (1995)<sup>2</sup> on the application by Ukraine for the membership of the Council of Europe. Ukraine accepted the obligations incumbent on all member States under Article 3 of the Statute: compliance with the principles of pluralist democracy and the rule of law as well as respect for human rights and fundamental freedoms of all persons placed under its jurisdiction.

To date, the country has signed and ratified 86 treaties of the Council of Europe and is committed to a number of the Council of Europe's mechanisms, including those of the European Court of Human Rights (ECtHR), the Committee of Ministers (CM), the PACE, the Commissioner for Human Rights of the Council of Europe (the Commissioner), the European Commission for Democracy through Law (Venice Commission), the European Commission against Racism and Intolerance (ECRI), the European Committee for the Prevention of Torture (CPT), the Group of States Against Corruption (GRECO), the Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), the European Committee of Social Rights (ECSR), the Framework Convention for the Protection of National Minorities (FCNM), the Committee of the Parties to the Convention on the Protection of children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA), the European Charter for Regional or Minority Languages (ECRML) and the Congress of Local and Regional Authorities (the Congress).

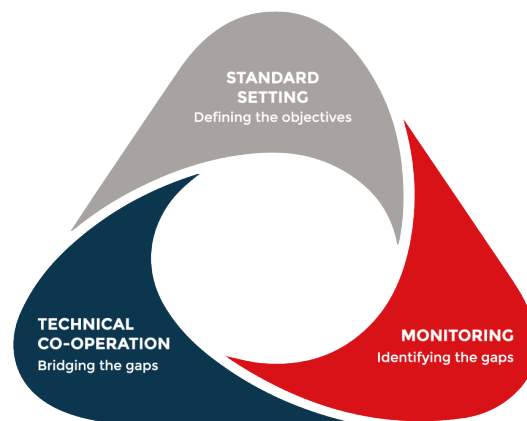
Since 1995, the Council of Europe has engaged in a number of initiatives mainly focusing on assisting Ukraine's integration in a common European legal space. Since 2005, Ukraine has benefited from co-operation programmes in the framework of the Council of Europe's Action Plans.<sup>3</sup> Past programmes backed by the European Union were implemented to fight corruption and money-laundering, to promote efficiency of the justice system, to strengthen media independence, to combat ill-treatment and discrimination, to reform electoral legislation and practice and to support reforms of the penitentiary system. Similarly, voluntary contributions of the Council of Europe member States have allowed covering projects in the area of constitutional reforms, reforms of the judiciary and public prosecution, strengthening of the free legal aid system, public broadcasting reforms, strengthening parliamentary capacity, protection of the rights of IDPs, decentralisation and local self-governance, promoting regional and local democracy, preventing and combating violence against women and children. These programmes helped Ukraine to adopt a number of legislative acts and implement institutional reforms which brought its criminal justice system closer to the European standards, established National Preventive Mechanism, improved training of the legal professionals on the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR), established a specific consultative mechanism responsible for the overview of the implementation of ECtHR judgments within the Verkhovna Rada of Ukraine, launched territorial reform, established genuine public media institutions, promoted interagency co-operation to respond to violence against women and children and enhanced law enforcement capacity to address ill-treatment.

#### Added value of the technical assistance programmes of the Council of Europe

The added value of the technical assistance programmes of the Council of Europe is that such programmes form an integral part of the unique strategic triangle of standard-setting, monitoring and co-operation; whereby the development of the legally binding standards is linked with their monitoring by independent mechanisms and supplemented by technical co-operation to facilitate their implementation. Actions are developed and implemented in areas of the Council of Europe expertise and added value.

<sup>2</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=13929&lang=en>

<sup>3</sup> Council of Europe Action Plans for Ukraine: 2005-2008 (DSP(2005)9); 2008 -2011 (DSP(2008)15); 2011-2014 (ODGProg/INF(2013)5-rev); 2015-2017 (GR-DEM(2015)2).



**Figure 1.** *Council of Europe Strategic Triangle*

### **Main findings of monitoring mechanisms and expert advisory bodies**

The present Action Plan is based, to a large extent, on the recent recommendations, resolutions and findings of the Council of Europe's monitoring and expert advisory bodies in respect of the country as well as on the results of the previous Council of Europe Action Plan for Ukraine (2015-2017). It also takes into account the challenges identified in the Secretary General's annual reports on the State of Democracy, Human Rights and the Rule of Law in Europe. The Action Plan reflects the priorities of the reforms in the country, notably those identified in the [Strategy for Sustainable Development "Ukraine 2020"](#), [the Medium-Term Government Priority Action Plan up to 2020](#), [the National Human Rights Strategy of Ukraine and its Action Plan](#), [Justice Sector Reform Strategy 2015-2020](#), the agenda of the anti-corruption, decentralisation and local self-governance reforms, penitentiary and public media reform, the [Concept of the State Social Programme to ensure Equal Rights and Opportunities for Women and Men \(2017-2021\)](#) as well as [The New Ukrainian School – conceptual principles of secondary school reform \(2016-2029\)](#).

In developing the Action Plan and designing technical co-operation support to reforms, the gaps identified by the following Council of Europe institutions, monitoring mechanisms and expert advisory bodies have been taken into account:

#### **Protection and promotion of human rights, ensuring social rights:**

- ECtHR case-law in particular on ill-treatment, conditions of detention, right to liberty and security of a person, functioning of judiciary, freedom of assembly, violence against women and children;
- Parliamentary Assembly of the Council of Europe (PACE) recommendations, resolutions and opinions including those highlighting human rights and humanitarian concerns with regard to people affected by the conflict;
- European Commission against Racism and Intolerance (ECRI) recommendations highlighting issues related to legal and institutional frameworks to counter discrimination;
- reports on compliance with the FCNM covering implementation of the public ethnic-national policy;
- Commissioner's recommendations on combating impunity for serious human rights violations and ensuring the effective prosecution and sanctioning of those responsible for the commission of such crimes;
- ECSR conclusions relating to the implementation of the accepted provisions of the European Social Charter (ESC), notably those highlighting shortcomings in the legal framework and its practical implementation;
- recommendations of the Lanzarote Committee in its 1st implementation report on Protection of children against sexual abuse in the circle of trust.

#### **Ensuring justice, strengthening the rule of law and countering threats to the rule of law:**

- Venice Commission opinions on constitutional changes and on other legislation concerning the judiciary and Commissioner recommendations with regards to strengthening the independence and efficiency of justice;
- Consultative Council of European Judges (CCJE) opinions relating to independence, impartiality and competence of judges;

- Consultative Council of European Prosecutors ([CCPE](#)) opinions on European norms and principles concerning prosecutors;
- CM's conclusions pointing towards the problem of execution of court judgments in Ukraine;
- CPT recommendations regarding the actions to combat ill-treatment and impunity as well as well to address shortcomings related to inadequate staffing levels and conditions of service within the penitentiary system and in other closed institutions;
- GRECO [recommendations](#) aiming at effective implementation of the existing anti-corruption legislation;
- Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) conclusions on the level of implementation of the anti-money laundering legislation in practice;
- CM's recommendations to member States and Commissioner's position regarding the need to ensure effective participation of non-governmental organisations (NGOs) in dialogue and consultations on public policy objectives and decisions;
- CM's recommendations to member States regarding freedom of the media and the internet.

### **Strengthening democratic governance and promoting participation and diversity:**

- PACE Resolutions on the functioning of democratic institutions in Ukraine;
- Congress recommendations on the situation of local democracy in Ukraine;
- GRECO recommendations regarding the need to enhance transparency and accountability of political process;
- Venice Commission opinions regarding constitutional amendments as to decentralisation of power, the territorial structure and local administration as well as opinions related to increasing trust in the political and electoral process, including the reform of the Rules of Procedure and internal organisation of the Verkhovna Rada.

The implementation of the Action Plan will be also informed by the relevant PACE resolutions and the CM decisions. Furthermore, relevant Council of Europe conventions and other instruments of the Organisation, such as the Charter on Education for Democratic Citizenship and Human Rights Education, have been used as reference for actions included in this document.

### **Main results of the Council of Europe Action Plan for Ukraine 2015-2017**

The present Action Plan takes into account the achievements of the Action Plan 2015-2017:

- adoption of constitutional amendments regarding the judiciary, the Law on the Judiciary and the Status of Judges and the Law on the High Council of Justice; creation of public broadcasting, reform of community-owned printed and local media and transparency of media ownership;
- creation of over 600 new territorial communities resulting from the municipal amalgamation;
- establishment of a mechanism within the Verkhovna Rada of Ukraine, responsible for the oversight of the implementation of ECtHR judgments;
- adoption of legal amendments to support humanisation of execution of sentences, development of a more efficient internal prison inspection scheme, increased awareness and capacities on creating rehabilitative prison regimes and managing prisons in an ethical context (new Code of Ethics for prison staff adopted; Manual on Prison Management published; Suicide and Self-Harm Prevention Policy revised; social and life skill courses and management practices piloted);
- increased capacity of the National Anti-Corruption Bureau of Ukraine (NABU) and the National Anti-Corruption Prevention Agency (NACP);
- support in the creation and further development of the Human Rights Directorate in the National Police of Ukraine (NPU);
- further improvement of legislation on asset declarations in line with the Council of Europe recommendations;
- entry into force of the new Law on the Public Prosecution Service and set-up of the prosecutorial self-governance and support bodies (Council of Public Prosecutors and Qualification and Disciplinary Commission of Prosecutors);
- incorporation of new approaches towards knowledge management and institutionalisation of the analysis and application of the ECHR standards within prosecutorial training system;
- development of the General Rules of Ethical Conduct for Civil Servants and Local Government Officials by the National Agency for Public Service;

- improved legal framework on investigation of ill-treatment cases (the law of Ukraine “On the State Bureau of Investigation” and amendments to the Criminal Procedure Code of Ukraine);
- expansion of the system of providing the free legal aid to civil and administrative cases, granting the right to free secondary legal aid to additional specific categories of vulnerable groups, broadened access to free primary legal aid; improved skills of the staff of regional and local Coordination Centres for Free Legal Aid, lawyers, which provide free secondary legal aid to apply ECHR and the case-law and in protection of the IDPs rights;
- increased knowledge of over 2 700 police investigators staff of the Human Rights Directorate of the NPU and over a 1000 prosecutors about European human rights standards and practices;
- preparation and presentation of the Progress Review Methodology of the Justice Sector Reform in Ukraine – a policy-specific set of tools for assessing substantive results of the justice sector reform in Ukraine in their dynamics;
- development of the policies and practices to protect the IDPs’ rights by the Ministry of the Temporarily Occupied Territories and IDPs;
- preparation of the ratification package of laws for the Istanbul Convention that was adopted at the first Parliamentary hearing, and is pending the final hearing.

## Consultation process

This Action Plan has been prepared following extensive consultations with the authorities of Ukraine in January-June 2017. Consultations with international partners, especially the European Union, have also taken place in the process of preparation of this document.

On 12 June 2017, the Action Plan Steering Committee, composed of representatives of the Council of Europe Secretariat and the Ukrainian authorities, met in Kyiv in order to assess the implementation of the Action Plan 2015-2017 and to define priorities for the future.

## 2. Action Plan goals

This Action Plan is a strategic programming instrument for the period between 1 January 2018 and 31 December 2021. Its goal is to support reforms bringing Ukrainian legislation, institutions and practice further in line with European standards in the areas of human rights, the rule of law and democracy, thus assisting the country’s efforts in meeting its obligations as a Council of Europe member State. In meeting its objectives, this Action Plan will also contribute to the goals of the [Ukraine-European Union's Association Agreement](#).

The Action Plan covers the following areas of co-operation:

The Council of Europe will continue to support the authorities of Ukraine in progressing with (and completing where possible) the reforms undertaken in strategic areas, notably:

- enhancing implementation of the ECHR and the ECtHR case-law at national level and strengthening mechanisms of execution of judgements of the national courts;
- ensuring the implementation of the key standards for the judiciary – the independence, impartiality and irremovability of judges;
- increasing effectiveness, accountability and transparency of the judiciary and the prosecution service;
- strengthening the monitoring and assessment of the reform impact in the justice sector by national institutions as an instrument of policy-making and raising public awareness;
- increasing transparency and effectiveness of the public administration at central and local levels;
- increasing transparency of the political process and trust in electoral practices;
- reforming the Rules of Procedure of the Verkhovna Rada and increasing its efficiency; fighting corruption and money laundering;
- supporting further development of the system of providing of free legal aid to ensure its independence, better quality and accessibility and gender sensitivity;
- the improvement of the legal culture and legal consciousness in the society, as well as the knowledge of the citizens about the rights guaranteed by the Constitution and laws of Ukraine in various life spheres, measures for citizens with the aim to be acquainted with the human rights and its implementation and protection;
- strengthening the National Preventive Mechanism;



- improving detention conditions of and preventing ill-treatment of persons detained in police, prisons or other closed establishments;
- strengthening the capacities to investigate ill-treatment, torture and other serious human rights violations by the State Bureau of Investigations (SBI);
- enhancing media pluralism and ensuring the safety of journalists;
- bringing policy and practice with regard to protection of the IDPs' rights further in line with European human rights standards;
- improving the quality of local democracy through genuine decentralisation and local self-government;
- enhancing information security, access to public information and personal data protection;
- improving women's access to justice;
- strengthening the capacities of the anti-corruption bodies.

The Council of Europe and the authorities of Ukraine jointly agreed to extend and intensify co-operation on the basis of the more recent work carried out by the Council of Europe institutions, monitoring mechanisms and expert advisory bodies, notably:

- enhancing the protection of the human rights of IDPs;
- enhancing the protection of social rights across society;
- preventing and combating violence against women and domestic violence;
- increasing democratic participation in society;
- improving local and regional democracy;
- improving the system of enforcement of judgements;
- protecting and promoting children rights;
- improving the conditions of detention in prisons and other closed institutions;
- developing legislative framework and capacity to tackle cybercrime;
- promoting equal opportunities for vulnerable groups, with an emphasis on women, children and young people in these groups;
- promoting gender equality;
- increasing the capacity of the Verkhovna Rada to promote Council of Europe standards and adopt legislative framework in line with those standards, in particular the ECHR and the case law of the ECtHR;
- strengthening the operational capacity of the staff of the Verkhovna Rada to support the members of the Parliament; countering discrimination on all grounds and protecting minority rights, enhancing social cohesion;
- supporting democratic reforms in education by strengthening integrity and transparency of the education system and promoting human rights education/education for democratic citizenship through professional training, formal education and youth activities.

The Action Plan will focus on the effective implementation of existing legislative frameworks, some of which were prepared in the context of the previous Action Plans for Ukraine. The support will continue to strengthen the capacities of relevant national institutions to function effectively. This includes the capacity to address gender issues and facilitate constructive dialogue between the authorities and civil society. The Council of Europe aims to gradually increase its outreach throughout the country, including the government-controlled regions affected by the conflict. Special emphasis will be put on enhancing co-ordination and communication among national partners representing all branches of power as well as professional groups and NGOs.

Promoting gender equality is a priority of the present Action Plan. Gender mainstreaming, based on European standards and recommendations of the Council of Europe, will help to better address the needs of women and men and enhance quality and effectiveness of the Action Plan implementation. This is fully in line with the Ukrainian Government's efforts to strengthen gender equality and the creation of the position of the Government Commissioner on Gender Equality Policy and the Office of the Commissioner as well as adoption of the [Concept of the State Social Programme to ensure Equal Rights and Opportunities for Women and Men \(2017-2021\)](#).

## **Part II – Proposed actions for 2018-2021**

### **I. Human Rights**

There is a need to continue enhancing legislative and institutional frameworks and increasing the capacity of relevant institutions to conduct reforms, including on combating impunity and ill-treatment, ensuring the right to fair trial, preventing and combating discrimination, preventing and combating gender-based violence

and child abuse, promoting gender mainstreaming, protecting IDPs' rights as well as access to public information and data protection.

Special attention is required regarding human rights protection taking into account the derogation of Ukraine from certain obligations under the European Convention on Human Rights adopted in 2015.<sup>4</sup>

## 1.1. Protecting Human Rights

### Enhancing the Effectiveness of the ECHR System at National and European Level

The current mechanism and practice for the investigation of allegations of ill-treatment is still not fully aligned with Council of Europe standards. The regulatory framework and reform strategy 2017-2020 on ensuring the effective functioning of police is under revision, and the SBI is in the process of being established.

Reporting on its November 2016 visit to Ukraine, the CPT expressed serious concern about the frequency of allegations of ill-treatment by police officers, stressed the need to improve the conditions of detention in the pre-trial establishments (SIZOs) and regime for life-sentenced prisoners, prevent ill-treatment by staff as well as inter-prisoner violence and reiterated its long-standing concern over prison health-care. In the context of the on-going prison reform, the CPT reiterated the need to also address the inadequate custodial staffing levels.

Impunity for violations of human rights undermines prospects for justice according to the Office of the United Nations High Commissioner for Human Rights [reports on the human rights situation in Ukraine](#). Progress in investigation of high-profile cases (deaths that occurred during the Maidan and Odessa events, deaths of journalists, corruption cases involving top-ranking officials) is slow. The [reports](#) of the Commissioner highlight pressing human rights issues that have to be addressed urgently in both the government-controlled and non-government controlled territories.

The Council of Europe will support the implementation of legislation to prevent ill-treatment and to fight impunity including through expert support and training of SBI on effective investigation of ill-treatment cases. Capacity building for the Human Rights Directorate and the Investigation Department of the NPU to effectively investigate ill-treatment will continue. Expert support will be provided to the newly established Human Rights Directorate of the Ministry of Interior to introduce and effectively implement the policy of human rights protection within the law enforcement system promoting zero tolerance to ill-treatment and discrimination.

Human rights' training for legal professionals and law enforcement personnel is not yet fully integrated into the core training curriculum of the national professional training institutions. It should become gender sensitive, cover all dimensions of the Ministry of the Interior and be included in the curricula of the National Prosecutor Academy and the School of Judges of Ukraine, as well as the training programme for the new Supreme Court and staff of the Ukrainian Verkhovna Rada secretariat. The extension of such training to the armed forces will contribute to tackling human rights violations against army personnel<sup>5</sup> and civilian population. At the same time, providing the training in human rights sphere for the heads of legal services of the Ministries and other executive bodies will facilitate implementation of the ECHR system at the national level.

### Ombudsperson and National Preventive Mechanism

Together with other international partners present in Ukraine, in 2015-2017 the Council of Europe participated in the monitoring of the implementation of the National Human Rights Strategy by 2020 (NHRS) approved by the Ukrainian President on 25 August 2015 and the National Action Plan to implement the NHRS in Ukraine approved by the Cabinet of Ministers of Ukraine on 23 November 2015. The effectiveness of its implementation continues to depend on adequate funding and effective co-ordination between the authorities, the Ukrainian Parliament Commissioner for Human Rights (the Ombudsperson), and civil

<sup>4</sup> <https://wcd.coe.int/ViewDoc.jsp?Ref=NotificationJJ7979C&Language=lanEnglish&Ver=original&BackColorInternet=F7F8FB&BackColorIntranet=F7F8FB&BackColorLogged=F7F8FB>

<sup>5</sup> Recommendation CM/Rec(2010)4 of the Committee of Ministers to member States on human rights of members of the armed forces: <http://www.refworld.org/docid/506979172.html>

society. It is also recalled in this respect that at the time of writing of the Action Plan the procedure for the election of the new Ombudsperson was to be defined through new legislation pending adoption at the Verkhovna Rada.<sup>6</sup>

The reform of the public prosecution narrowed the functions of this institution primarily to prosecution of criminal cases in courts, leaving out the general supervision over adherence to human rights. As a result, the capacity of the Ombudsperson to protect human rights needs to be further reinforced. The Council of Europe will support the reinforcement of the capacities of the Ombudsperson institution to monitor and report on human rights violations and to promote human rights in line with its mandate.

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment entered into force in Ukraine in 1997.<sup>7</sup> This Action Plan aims to contribute to the efficient functioning of the National Preventive Mechanism and thus to strengthen protection for people deprived of their liberty. Actions will aim to enhance the capacity to monitor and report on situations in all types of places of detention including psychiatric hospitals, to raise awareness of detainees' rights, to strengthen co-operation between different authorities and state institutions (e.g. law enforcement, prosecutor office, institutions of the free legal aid system, social workers and medical personnel) and with civil society, to increase their capacity to address gender sensitive issues, and enhance the visibility of the role and functions of the NPM among the population in general.

Improving media and individuals' access to official documents and information possessed by authorities is linked to the inconsistent and incomplete legal and regulatory framework as well as over-regulation and bureaucratisation. This is the same for the protection of personal data, which is currently in the mandate of Ombudsperson. The Council of Europe will help to improve the situation by assisting in clearly defining areas of institutional responsibility. Institutions covering access to public information need to be reformed (notably the Ombudsperson institution as well as relevant regulatory bodies or established Information Commissioner (IC)<sup>8</sup>). Over-regulation of the relevant legislative framework needs to be avoided and its application strengthened. Special attention will be given to access to information related to the courts and to records concerning public funding. Strengthening Ukraine's capacity in the area of access to information is also an important factor in fighting corruption.

Enhancing the capacity of the Ombudsperson as the national mechanism for combating discrimination as well as its role in protecting the rights of IDPs is covered by the respective chapters of the present Action Plan.

### **Expected outcomes**

#### *Enhancing the Effectiveness of the ECHR System at National and European Level*

- ✓ the capacity of the Verkhovna Rada to ensure the compatibility of the draft legislation with European Human Rights standards is enhanced, and its capacity to control the implementation of the ECtHR judgments is consolidated;
- ✓ compliance of legislative and regulatory frameworks concerning the fight against ill-treatment and impunity with European standards is ensured by national authorities;
- ✓ the National Human Rights Action Plan is implemented.

#### *Ombudsperson and National Preventive Mechanism*

- ✓ the Ombudsperson's function to fight ill-treatment and discrimination on all grounds are enhanced through increased scope and quality of reporting;
- ✓ the National Preventive Mechanism effectively monitors and reports on human rights violations in places of detention and psychiatric institutions, taking into account the gender dimension;
- ✓ the Ombudsperson's functions in the sphere of access to public information and personal data protection are passed over to the new institution (Information Commissioner);

<sup>6</sup> At the time of writing of the Action Plan, there are two legal acts with equal force, one of which provides for a secret ballot vote for the appointment process of the Ombudsperson and another one - which provides for an open voting. This situation makes it impossible for the Verkhovna Rada to proceed with the election of the Ombudsperson. Therefore a clarification of the legislation is a prerequisite.

<sup>7</sup> The country ratified the UN Optional Protocol for the Convention against Torture (OPCAT) in 2006.

<sup>8</sup> The Council of Europe Institutional Mapping Analysis in the Sphere of Information Policy and Media in Ukraine recommended setting up an independent Information Commissioner (IC) (preferably a joint personal data protection and access to public information authority). Establishing the IC institution requires amending the Constitution and the collection of signatures of the members of the Verkhovna Rada started in 2017 for initiating the procedure.

- ✓ the legislative framework and institutional setting to ensure access to public information and protection of personal data are in line with the European standards and practices;
- ✓ increased capacity of national human rights institutions and of legal professionals to implement European human rights standards, and in particular the ECHR, including through better training of legal professionals;
- ✓ law enforcement and military personnel are equipped with knowledge and skills to implement European standards and practices to prevent and effectively protect against human rights violations;
- ✓ follow up to the recommendations and decisions of the monitoring and advisory bodies of the Council of Europe is ensured in close co-operation with national authorities and civil society in relation to the protection of the human rights of IDPs.

**Main national partners: Ombudsperson, Ministry of Justice, Prosecutor General's Office (PGO), Ministry of Interior, National Police, Ministry of Defense, National Prosecutor Academy, the National School of Judges, National Academy of Internal Affairs, the Supreme Court, relevant Committees of the Verkhovna Rada, NGOs.**

## 1.2. Promoting Human Rights and Dignity

### Anti-discrimination

The Council of Europe has played an instrumental role in consolidating national capacities on non-discrimination and building long-lasting networks among lawyers and human rights defenders. It has also provided training on European anti-discrimination standards as well as expert advice on legislative improvements and the promotion of public campaigns on the prevention of and fight against discrimination for the staff of the Ombudsperson.

Ukraine adopted an anti-discrimination amendment to the country's labour code that covers sexual orientation in 2015. Nevertheless, discrimination on the grounds of age, disability, ethnic origin and sexual orientation remains a significant problem.<sup>9</sup> Therefore, the anti-discrimination legal framework needs to be aligned with Council of Europe standards.<sup>10</sup> Criminal, civil and administrative legislation needs to be scrutinised and missing elements introduced in line with the Council of Europe recommendations.<sup>11</sup> Another priority is the information policy strategy for combating discrimination<sup>12</sup> and strengthening the potential of target groups to combat discrimination: young people, law enforcement agencies, judges, lawyers and staff of free legal aid centres. The Council of Europe will support a nation-wide awareness campaign to promote respect and understanding of vulnerable groups as well as activities to address discrimination and bullying in the educational system.

### Minorities- National Minorities, Regional or Minority Languages

The Ombudsperson's Office has the competence to address issues pertaining to racism and racial discrimination. However, according to the ECRI, the Ombudsperson's Office cannot be responsible for co-ordinating government action because of its status as an independent body.<sup>13</sup> In 2014, the Ukrainian Cabinet of Ministers approved the decree giving function to promote tolerance within Ukrainian society to the Ministry of Culture. Yet, the Ministry's co-ordination initiatives have been confined to supplying information in the cultural and arts spheres. The Council for Inter-Ethnic Cohesion is, first and foremost, a body that facilitates relations between the government and minorities. Thus, effective co-ordination of governmental work on combating racism and racial discrimination requires further institutional development. In addition, gender-sensitive responses to minority rights have to be developed.

<sup>9</sup> The UNDP pilot study, conducted in Kharkiv region in 2016, pointed to discrimination towards the elderly (aged over 50) as the most widespread form of discrimination (45.8%), followed by discrimination based on disability (40%), sexual orientation (36.7%) and ethnic origin (30.5%): <http://www.ua.undp.org/content/ukraine/en/home/presscenter/articles/2017/04/05/human-rights-survey-ombudsman-and-anti-discrimination-barometer-three-ways-to-support-human-rights-in-ukraine.html>

<sup>10</sup> See ECRI Report on Ukraine (fifth round): <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-V-2017-038-ENG.pdf>

<sup>11</sup> ECRI's General Policy Recommendation No. 7 on national legislation against racism and racial discrimination; ECRI's General Policy Recommendation No. 2 on national Specialised Bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level

<sup>12</sup> See ECRI Report on Ukraine (fifth round): <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-V-2017-038-ENG.pdf>

<sup>13</sup> <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-IFU-IV-2015-025-ENG.pdf>

The Council of Europe will assist the authorities in further developing the legal framework on the protection of national minorities and use of minority languages<sup>14</sup> as a way to strengthen intercultural understanding and multilingualism (minority languages in addition to Ukrainian), notably in view of the adoption and implementation of the new Law on Education.<sup>15</sup> Specific attention in this respect will be provided to the situation of the Crimean Tatars and other national minority groups who were displaced following the illegal annexation of the Autonomous Republic of Crimea and the city of Sevastopol. Revision of teaching materials and school curricula is also required with a view to reflecting the rich cultural heritage in Ukraine.

Improving the situation of Roma in Ukraine by enhancing co-operation between Roma civil society organisations and national and regional authorities is another priority of the Organisation. Marginalisation of Roma is often perpetuated by the lack of access to personal documents.<sup>16</sup> The conflict in Ukraine is adding to the difficulties with many displaced Roma families.<sup>17</sup> The Council of Europe will help authorities at all levels, including through assistance in the implementation of the National Plan of Action of the Strategy for the protection and integration of the Roma ethnic minority into Ukrainian society 2013-2020, to address such issues as lack of Roma representation at local and institutional level, participation in electoral process, access to education for children and most vulnerable adults, as well as various forms of violence and hate speech against Roma. Co-operation with law enforcement on mediation with Roma community and protection of their rights, which started in 2014, should be continued, as well as the on-going efforts of the local authorities in various regions that participated in the Council of Europe-European Union Joint programme ROMED2 to set up a national Alliance of cities and regions for the Inclusion of Roma. Specific attention will be given to the protection of the Roma women, youth and children.

### **Rights of Internally Displaced Persons**

The focus of international support to IDPs in Ukraine has almost exclusively been on immediate humanitarian needs and UN standards. Unlike most other international organisations, from the very start of its IDPs programme, the Council of Europe focused on assisting in the development of the legislative and institutional framework based on its standards and experience in the field.

The Ministry of Temporarily Occupied Territories and Internally Displaced Persons (MTOT and IDPs) was created in 2016 following consistent advocacy by international organisations including the Council of Europe and relevant national stakeholders. The MTOT and IDPs became the main institutional partner of the Council of Europe in its activities to protect the rights of IDPs.

A Council of Europe study published in June 2016, entitled “Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of IDPs”, analyses and evaluates the Ukrainian legislative framework in the light of international standards and provides concrete guidance and recommendations.

The “Action Plan on implementation of some principles of state internal policy on certain areas of the Donetsk and Luhansk regions outside the control of the Government of Ukraine” was approved by the Cabinet of Ministers of Ukraine in January 2017<sup>18</sup> and the Council of Europe will assist with its implementation.

The Organisation will aim to provide expert support for further improvement of the national legislation and practices with regard to:<sup>19</sup>

- protection of property rights;
- access to education;
- solving problems related to identification;
- protection of personal data;
- effective long-term integration solutions, employment and housing;
- targeted state support.

<sup>14</sup> Declaration contained in the instrument of ratification of the ECRML deposited on 19 September 2005: “Ukraine declares that the provisions of the Charter shall apply to the languages of the following ethnic minorities of Ukraine: Byelorussian, Bulgarian, Gagauz, Greek, Jewish, Crimean Tatar, Moldavian, German, Polish, Russian, Romanian, Slovak and Hungarian.”

<sup>15</sup> The Opinion on the provisions of the Law on education adopted by the Venice Commission at its 113<sup>th</sup> Plenary Session (8-9 December 2017) will be taken into account in this context (CDL-AD(2017)030).

<sup>16</sup> <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-V-2017-038-ENG.pdf>

<sup>17</sup> See the conclusions of the CAHROM thematic visit on challenges and best practices in implementing Roma inclusion strategies, including mechanisms for solving personal identification documents and improving access to social services to Ukraine conducted on 26-28 April 2017.

<sup>18</sup> [http://unhcr.org.ua/attachments/article/1661/KMU\\_Action%20Plan\\_ENG.pdf](http://unhcr.org.ua/attachments/article/1661/KMU_Action%20Plan_ENG.pdf)

<sup>19</sup> See ECRI report on Ukraine (fifth monitoring cycle): <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-V-2017-038-ENG.pdf>

Specific attention will be given to the protection and empowerment of the women and children among IDPs. Female IDPs face different challenges, in many cases they are care takers of children and elderly, they lack opportunities for employment and are vulnerable to violence. Women belonging to national minorities, women with disabilities, and elderly women are among the most vulnerable categories of IDPs.

Taking into account the ongoing process of amalgamation of municipalities, the Council of Europe will continue to support awareness-raising campaign to create a positive image of IDPs as a resource for hosting communities.

### **Fight against Violence against Women and Domestic Violence**

Ukraine has recently taken steps to align its national legal and policy framework with the requirements of the Council of Europe Convention on Preventing and Combating Violence against women and Domestic Violence (Istanbul Convention). In April 2017, the Cabinet of Minister of Ukraine adopted a National State Social Programme on ensuring equal rights and opportunities for women and men by 2021. In June 2017, Ukraine adopted a decree on the establishment of the position of Government Commissioner for Gender Equality Policy. Nevertheless, the Istanbul Convention is still pending ratification. Women are at particular risk of violence and abuse in the areas affected by the conflict.<sup>20</sup>

Co-operation in this area will build on the results achieved by a project completed in August 2016 and on needs identified jointly by the Council of Europe and national authorities, notably the Ministry of Social Policy, the Ministry of Interior Affairs and the Ombudsperson. The main focus of the Action Plan in this field will be on:

- working with the relevant Committees of the Verkhovna Rada to ensure the adoption of the necessary legislation for the ratification of the Istanbul Convention;
- upon ratification of the Istanbul Convention, support the amendment of national legislation and the development of by-laws related to counteracting domestic violence ;
- establishing a mechanism for protection and comprehensive aid to the victims of violence against women;
- strengthening capacities and increasing knowledge of all relevant stakeholders and professionals involved in protection of victims and survivors of violence against women and domestic violence;
- improving statistical reports and the collection of data broken down by sex, age and social status;
- raising awareness of the authorities at different levels regarding the problem of violence against women and domestic violence in Ukraine and the need to combat it; sharing information about the Istanbul Convention and other international standards in this area;
- raising awareness of society on combating stereotypes and gender inequality as well as regarding risks of domestic violence in the families affected by the conflict.

### **Children's Rights**

Ukraine is a Contracting Party to the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) since 2012. [The 1<sup>st</sup> Implementation Report](#) of the Lanzarote Committee urges Ukraine to amend its legislation in line with the requirements of the Convention, including making sure that the best interest of the child is applied in the investigations and criminal proceedings concerning acts of sexual exploitation and sexual abuse of children. The draft amendments to the legislation aimed at the implementation of the Lanzarote Convention are under consideration by the Verkhovna Rada of Ukraine.

The Council of Europe will assist in the development of an integrated national strategy for the protection of children against violence, in particular sexual violence, and setting up child-friendly and gender-sensitive multi-agency response to child sexual abuse in Ukraine. Capacity building of professionals to provide protection to the victims and witnesses of sexual abuse as well as awareness raising and prevention methods to combat child sexual abuse in Ukraine will be introduced. A specific focus will be to address children in vulnerable situations, including children affected by the conflict and children in alternative care.

<sup>20</sup> According to the Office of the United Nations High Commissioner for Human Rights on Conflict-Related Sexual Violence in Ukraine: "The deterioration of the economic situation, particularly in conflict-affected regions, combined with the destruction of community ties caused by the conflict and displacement, have compelled some people to use harmful survival strategies and coping mechanisms that may increase the risk of sexual violence and trafficking." [http://www.ohchr.org/Documents/Countries/UA/ReportCRSV\\_EN.pdf](http://www.ohchr.org/Documents/Countries/UA/ReportCRSV_EN.pdf)

## Expected outcomes

### *Anti-discrimination*

- ✓ alignment of human rights legislative and regulatory frameworks with European standards to eliminate all forms of discrimination is ensured by national authorities;
- ✓ improved capacity of relevant instances to report cases of discrimination and conduct effective investigation;

### *Minorities- National Minorities, Regional or Minority Languages*

- ✓ the rights of national minorities are promoted and protected through effective co-ordination between authorities and civil society which contributes to preservation of the cohesion and unity of Ukrainian society, taking into account gender-dimension;
- ✓ National Police enhanced co-operation with public organisations representing national minorities, including Roma, in order to overcome stereotypes in society;

### *Rights of Internally Displaced Persons (IDPs)*

- ✓ the situation of IDPs with regard to housing, access to documentation, employment and the social protection justice system and education is improved through implementation of a comprehensive inter-agency gender sensitive policies;

### *Fight against Violence against Women and Domestic Violence*

- ✓ effective preventive and protective mechanisms to address violence against women and domestic violence are introduced into relevant legislation;
- ✓ National Police capacity to apply on practice provisions of the Istanbul Convention is increased;

### *Children's Rights*

- ✓ an enabling environment is established (including changes in legislation, improved awareness and strengthened capacities of relevant authorities) for setting up a child-friendly multi-agency gender-sensitive response and co-operation mechanisms to address violence against children and child sexual abuse;
- ✓ Strengthened capacities of authorities and professionals to prevent and protect children from violence, sexual exploitation and sexual abuse and provide adequate support for child victims and witnesses of violence.

**Main national partners: Ministry of Justice, Coordination Centre for Free Legal Aid, the Ombudsperson Office, Ministry of Temporarily Occupied Territories and Internally Displaced Persons, Ministry of Culture, Ministry of Education and Science, National School of Judges, national minorities NGOs, Ministry of Social Policy, Ministry of Health, Ministry of the Interior and law enforcement agencies, Public Prosecution Office and National Prosecution Academy, Ministry of Youth and Sports, Gender Mainstreaming Office under the First Vice-Prime Minister of Ukraine, relevant Committees of the Verkhovna Rada, the Government Commissioner for gender equality policy, youth NGOs, regional state administrations, local authorities.**

## 1.3. Ensuring Social Rights

### Co-operation with Ukraine in enhancing the respect of social rights

The Council of Europe has engaged in actions in Ukraine aimed at reinforcing the respect of social rights through its monitoring mechanism, consisting in particular of national reports submitted to the ECSR by the Ukrainian authorities on the respect of the accepted provisions of the European Social Charter (ESC).

During the period 2009-2017, nine national reports have been submitted to the ECSR. On the basis of these reports, the ECSR found that the situation in Ukraine was not in conformity with several provisions of the ESC.<sup>21</sup> Furthermore, it found that national reports needed to be improved.

The National Action Plan on the implementation of the ESC for the period 2015-2019, approved by the Cabinet of Ministers of Ukraine in May 2015, confirms the determination of the Ukrainian authorities to enhance the guarantee of social rights in the country. There is a need for concentrated and comprehensive action in order to achieve the target objectives of the National Action Plan.

The Council of Europe will support towards the compliance of legislative and regulatory frameworks with European standards in the field of social rights; enhance national capacity to collect and provide necessary data to the ECSR as regards the implementation of the accepted provisions of the Social Charter; support the identification of legislative gaps and subsequent improvement of the national legislation in the fields covered by the non-accepted provisions taking gender perspectives into consideration; assist with the preparation of acceptance by Ukraine of provisions not yet accepted,<sup>22</sup> and support major NGOs specialised in the protection of human rights to integrate the social rights dimension in their activities.<sup>23</sup>

Co-operation activities will help to improve the situation of the IDPs population.

### Expected outcomes

#### *Co-operation with Ukraine in enhancing the respect of social rights*

- ✓ further compliance of legislative and regulatory frameworks with European standards concerning social rights, including standards on gender equality is ensured by national authorities;
- ✓ national authorities accept additional provisions of the ESC as well as the collective complaints procedure;
- ✓ national measures to prevent or redress the violation of social rights are implemented;
- ✓ national capacities to train relevant professionals on the ESC and networking among professional associations have increased;
- ✓ European Committee of Social Rights (ECSR) decisions and conclusions are made available and better known by targeted professionals.

**Main national partners: Ministry of Social Policy, Ministry of Health, Inter-ministerial group on the Social Charter, Ministry of Justice, Ministry of Interior, Ministry of Regional Development, Construction and Housing and Utility Services, Ministry of Education and Science, State Migration Service, State Labour Service, the Legislation Institute of the Verkhovna Rada; National School of Judges of Ukraine; Ministry for temporarily occupied territories and internally displaced persons, Ombudsperson, regional administrations and local authorities.**

## II. Rule of Law

The Council of Europe will continue supporting the efforts of Ukraine to increase trust in the justice system (judiciary, prosecution, penitentiary and police), to improve relevant legislative and institutional frameworks in accordance with European standards, to facilitate implementation of existing legislative and normative acts for a functional independence and accountability of the justice system, to improve enforcement of the national courts decisions as well as the execution of the ECtHR judgments, and facilitate further development of the system of providing the free legal aid. It will assist the authorities in continuing the reform of penitentiary for safer and more humane detention conditions and for increased public safety though reducing reoffending. Countering corruption, money laundering and cybercrime in a co-ordinated and persistent manner is important. Likewise, further efforts are needed to protect freedom of the media,

<sup>21</sup> Ukraine ratified the European Social Charter (revised) (ESC) on 21 December 2006, accepting 74 of its 98 paragraphs. On 17 May 2017, it accepted two additional provisions: Art. 12 §§3 and 4. It has not ratified the Additional Protocol providing for a system of collective complaints.

<sup>22</sup> Right to annual holiday with pay, right to a decent remuneration, right to social security, right to social and medical assistance, right of migrant workers and their families to protection and assistance, right of workers to protection of their claims in the event of insolvency of the employer and right to affordable housing.

<sup>23</sup> Right to annual holiday with pay, right to a decent remuneration, right to social security, right to social and medical assistance, right of migrant workers and their families to protection and assistance, right of workers to protection of their claims in the event of insolvency of the employer and right to affordable housing.



ensure its pluralism, increase safety of journalists, improve access to public information and protection of personal data.

## 2.1. Ensuring Justice

### Independence and Efficiency of Justice

An independent and effective judiciary is critical for ensuring accountability for human rights and the rule of law in Ukraine. Low level of trust in the judiciary results *inter alia* from failure to ensure proceedings that comply with fair trial guarantees. The Action Plan will further support the judicial reform to ensure that all Ukrainians enjoy equal protection by independent and objective judicial system.

The Constitutional amendments regarding the judiciary and the Law on the Judiciary and the Status of Judges and of the Law on the High Council of Justice adopted in 2016 set out a clear path of reform. These legislative changes aimed to transform the institutional structure and functions of the judicial authorities in Ukraine and significantly increased the independence of judges by placing the responsibility for the appointment and dismissal of judges with the High Council of Justice (HCJ).

The Action Plan will focus on the implementation of the constitutional reform on the judiciary to ensure that the new judicial system is fully operational and meets the country's obligations of the Council of Europe member State.

Following the adoption of the constitutional amendments and the relevant laws, further efforts are needed to harmonise the functions and powers of the HCJ, the High Qualification Commission of Judges of Ukraine and the Council of Judges of Ukraine, while ensuring the effective interaction between these institutions as well as to provide for a sound contribution by the Public Integrity Council (PIC).

The next important stage of the judicial reform aims at introducing significant changes in the Court System and focuses on its optimisation. Ensuring effective functioning and management of courts, especially of the new Supreme Court, is necessary. The Council of Europe has advised on the principles, criteria and methodology during the selection process of the judges of the new Supreme Court and has provided input on specific aspects, such as the rules of procedure of the PIC. Special attention needs to be paid to the system of appellate courts, as they form "the backbone" of the judiciary.

In addition, there is a need to assess national legislation and institutional capacities of the Bar including the issue of the mandatory legal representation in the courts. Another important objective is the promotion of the use of alternative dispute resolution in Ukraine.

The reform of the criminal justice system remains a priority area of co-operation between the Council of Europe and Ukraine. The Action Plan will continue to support improvement of the criminal justice legal framework and its alignment with Council of Europe standards, including the reform of legislation with regard to criminal sanctions and misdemeanours. Further assistance will be provided in the application of the criminal procedure legislation and establishment of the SBI.

The abolition of the general oversight function of the public prosecution service through the Constitutional changes was a major step towards the honouring of Ukraine's accession commitments to the Council of Europe. The Action Plan will further support the implementation of the reform of the public prosecution service on the basis of the new Constitutional and legal framework. The focus will be on: subsequent improvement or realignment of the legal and regulatory framework; revision of institutional setup and business processes, optimisation of internal operational procedures with a view to increasing efficiency of the service, enhancing independence of prosecutors; development of new system of recruitment, performance evaluation, initial and continuous training; application of ECHR standards in the prosecutorial activities; development of the capacity of the prosecutorial self-governance bodies, including in the context of alignment of disciplinary framework proceedings with the Council of Europe standards.

The Action Plan will facilitate co-operation of the Council of Europe with the National Academy of Prosecutors of Ukraine with a view to training prosecutors in the implementation of prosecutorial functions, European best practice as well as the standards enshrined in the ECHR and the ECtHR judgements.

The Action Plan will support the authorities in developing the necessary conditions to improve access to justice for women, as well as for vulnerable groups and Roma. Access to justice in the conflict-affected areas will be promoted by contributing to the capacity development of the displaced courts and prosecutor's offices in co-ordination with other international organisations, e.g. the Organisation for Security and Co-operation in Europe (OSCE).

Strengthening the Free Legal Aid (FLA) system remains among the priorities of the Action Plan as part of the right of access to justice in line with Council of Europe standards. Continued support will help to enhance the operation of the FLA system, by ensuring its institutional independence and strengthening operational capacities, improving the quality of the legal aid and its accessibility, including for vulnerable groups and women, raising awareness of the society on the rights and their protection mechanisms. Civil society participation in the legal reforms, including in the work of the PIC, will also be supported by the Organisation in order to ensure a constructive and fruitful dialogue with the governmental and judiciary authorities.

### **Prisons and Police**

The Ukrainian government declared 2016 the "Year of Prison Reform" and restructured the State Penitentiary System, bringing it under the Ministry of Justice. This resulted in the set-up of a Probation Service and an Internal Inspection Unit. The Council of Europe helped to define the mandate of the new inspection unit and to develop the standards for inspectors to check. It also supported the approximation of the legal framework and policies to the European standards in various areas of penitentiary work. It promoted a human rights compliant management of prisons and the introduction of a rehabilitative approach to treat prisoners with dignity and respect for their rights without compromising the security of prisons and preparing them better for law-abiding life after release. Parallel with the relevant legal and policy development, the Council of Europe helped in testing new rehabilitation practices on the ground in 6 prisons, including 2 female and 2 juvenile facilities. As a result, focus on treatment of prisoners and the rehabilitative approach already feature in the latest legal amendments and policy documents and have been embedded in various in-service training programmes for prison staff. These are promising signs; nevertheless, significant input is still required to accomplish reform goals and trigger changes in practices throughout the prison system.

This is also underlined by [the CPT report](#) published in July 2017, which shows that serious problems remained, in terms of poor conditions of detention, high occurrences of ill-treatment by the staff or inter-prisoner violence, inadequate healthcare services to inmates, investigation into allegations of ill-treatment in prisons, and problematic situation of prison staff in the entire prison system. There is a need to set up a system of remedies, in compliance with the case-law of the ECtHR, to domestically address issues of ill-treatment in detention.

The Council of Europe will remain focused on supporting reform initiatives to consolidate already achieved results and expand the work to enable favourable conditions for human rights compliant prison management practices and re-socialisation of inmates. This should lead to more secure, humane and healthier prisons and better public safety through reduced reoffending. Therefore, the Action Plan envisages further legal and policy development as well as capacity building activities for better management of prisons, higher professionalism of various groups of penitentiary staff and more effective re-socialisation programmes. Improving provision of health-care (including mental health) in prison is an area that requires specific, targeted action. The Council of Europe plans to support the national authorities in reforming the healthcare services for inmates and aligning it closer with the international standards. Particular attention will be given to arrangements for gender-sensitive healthcare in prisons in accordance with best European practices in order to ensure equity and continuity of care. This requires enhanced management and organisation of healthcare services, well-defined procedures that respect ethical principles as well as higher level of professionalism of staff and better material conditions.

The situation of prisoners transferred from the Crimean penitentiary institutions and those in the areas affected by the conflict requires particular attention, including providing social rehabilitation and legal aid.

While the reform of the National Police shows promising results, the legislative framework and quality of professional police training are still to be improved to ensure their compatibility with European standards and practices, as well as the establishment of sustainable interaction between police and other authorities, first and foremost at the regional and local level.

Particular importance will be given to uniformity of methodology for collecting and processing information by the judicial and law-enforcement authorities and expedient exchange of this information.

Capacity building of the National Police to address issues of violence against women, domestic violence and violence against children will be provided.

### **Execution of judgments**

As of July 2017, about 1,200 judgments of the ECtHR are under the Committee of Ministers' supervision. A large number of these cases concern repetitive issues. Remarkably, non-enforcement of national court decisions is the second most frequently invoked reason for applications submitted to the ECtHR. According to the statistics of the ECtHR, in April 2017, there were 12,334 cases against Ukraine pending before the Court on non-enforcement of final domestic judicial decisions of which 8,400 have been communicated to the Ukrainian authorities. The issue of non-enforcement had been characterised by the CM as a dysfunction of the justice system, representing an important danger to the rule of law and people's confidence in the judicial system as well as the credibility of the State. Measures identified by the CM in this context include the need to: strengthen the domestic courts' capacity to control the execution process; clarify the legal framework of enforcement procedures and the duties and responsibilities of the main state actors involved in this process; ensure the existence of effective remedies for delayed enforcement; having mechanisms and the finance in place to guarantee the enforcement of judicial decisions; strengthen the institutional capacity to deal with execution. The Council of Europe has adopted [enforcement recommendations and Guidelines](#) for the execution of the judgments of the ECtHR. In Ukraine, that would require notably to reform the system of criminal sanctions as well as the penitentiary system.

Execution of judgments of the ECtHR concerns mostly cases that are pending execution before the CM for more than five years, cases generating additional work to the Convention system due to the repetitive nature (Ivanov and Zhovner group of cases) as well as cases raising issues as regards the lack of effective investigation into breach of the right to life, absolute prohibition of ill-treatment, length and lawfulness of detention on remand, conditions of detention, as well as unreasonable length of the domestic judicial proceedings. This list is not exhaustive as it also contains *inter alia* such issues as freedom of expression and freedom of assembly, right to free elections, as well as prohibition of discrimination. The above would require the establishment of remedies as well as aligning the functioning of the domestic judicial system with the requirements of the Convention.

Close co-operation of all national authorities involved in the execution of judgments of the ECtHR is necessary as well. It is necessary to assist in increasing the institutional capacity of the Government Agent before the ECtHR in order to optimise the co-ordination processes for the execution of judgments among the domestic stakeholders. The Council of Europe will support the authorities in creating the best conditions for the execution of ECtHR judgements with a focus on the implementation of domestic courts decisions, combating ill-treatment, addressing lawfulness of detention, protecting right to liberty and security of a person, the right to fair trial, media freedom and safety of journalists, and cases from the Donetsk and Luhansk regions and Crimea (specifically on payment of social benefits). The effective functioning of the sub-committee on execution of the ECtHR judgements of the Verkhovna Rada, established in June 2017, will also be supported.

## Expected outcomes

### *Independence and Efficiency of Justice*

- ✓ enhanced effectiveness, independence, accountability and gender-sensitivity of the judiciary system at all levels;
- ✓ the new Supreme Court is in place and starts working;
- ✓ the function and powers of the HCJ, the High Qualification Commission of Judges of Ukraine and the Council of Judges of Ukraine and the PIC are aligned and effective interaction of these institutions is ensured;
- ✓ the assessment of the results of the justice sector reform is completed and reporting to the public about the progress of the reform is ensured;
- ✓ improved access to justice in the areas affected by the conflicts and for IDPs;
- ✓ faster, less confrontational, more effective, less financially burdensome solutions to settlement of conflicts are used as a result of functioning Alternative Dispute Resolution system, including through arbitration and mediation;
- ✓ criminal and criminal procedure legislation are further aligned with European standards;
- ✓ improved effectiveness, independence, decentralisation of functions and accountability of the public prosecution service;
- ✓ enhanced capacities of prosecutorial self-governance and disciplinary bodies to perform their functions;
- ✓ enhanced quality of legal university education and professional training, specifically concerning the ECHR and the case-law of the ECtHR, in line with the CM recommendations making it gender sensitive;
- ✓ gender equality issues are integrated in trainings for judges and prosecutor
- ✓ effectiveness of free legal aid system is enhanced, legal aid is better accessible to vulnerable groups and is gender sensitive;
- ✓ national legislation and institutional capacities of the Bar are further aligned with the European standards and practices;

### *Prisons and Police*

- ✓ conditions of detention and healthcare in the penitentiary and psychiatric institutions are improved, specifically for women and juveniles;
- ✓ rehabilitative approach to offenders leads to decrease in prison population and re-offending;
- ✓ improved capacity and gender sensitivity of the prison staff to perform its functions and enhanced conditions of its service;
- ✓ increased capacity of the domestic authorities to investigate instances of ill-treatment in detention and outside detention in relation to the abuse of power and excessive use of force by law enforcement authorities;
- ✓ increased capacity of the National Police to address cases of violence against women and children and domestic violence in co-operation with other institutions and civil society;

### *Execution of judgments*

- ✓ the system of enforcement of the judgments (both national and the ECtHR) is enhanced as a result of effective co-operation between various national institutions, clarification of the relevant legal framework as well as responsibilities of the parties;
- ✓ a model of co-ordination of work between various domestic actors on execution of judgments of the ECtHR is developed.

**Main national partners: the Judicial Reform Council, the Supreme Court, the Presidential Administration, relevant Committees of the Verkhovna Rada, General Prosecutor's Office, Ministry of Interior, National Police, the Government Agent before the ECtHR, the High Council of Justice, the High Qualification Commission of Judges of Ukraine and the Council of Judges of Ukraine, the Public Integrity Council, the National School of Judges of Ukraine, Ministry of Justice, Council of Prosecutors, Qualification-Disciplinary Commission of Prosecutors, National Academy of Prosecutors, Coordination Centre for Legal Aid Provision, the State Penitentiary Service, the Bar association, State Judicial Administration.**

## **2.2. Strengthening the Rule of Law**

### **Constitutional Justice**

In line with the constitutional amendments on the judiciary, the new law on the Constitutional Court foresees a new appointment procedure for judges of the Constitutional Court on the basis of a competitive selection process and a mechanism for a constitutional complaint.

The Venice Commission adopted an opinion on the previous version of the draft law (N° 5336-1) in December 2016. According to this opinion, the 2016 draft represented an advance in line with European standards. However, the Commission recommended further improving the selection process and the procedure with regard to constitutional complaints to the Constitutional Court. In April, the draft law was rejected by the Rada.

The amended draft (N° 6427-d) was adopted by the Rada on 13 July 2017. This draft was not submitted to the Venice Commission for opinion.

The Constitutional Court will have to adapt its working methods and its internal operation on the basis of the new law. The Venice Commission will assist the Court by organising specific conferences and seminars on constitutional complaints procedure and capacity-building activities for the staff of the court.

The Venice Commission will continue to assist Ukraine in bringing its legal and institutional structures in line with European standards and international experience, notably in such areas as electoral system, checks and balances between powers and the principle of inter-institutional co-operation and the delegation of legislative powers.

The procedure for review of constitutional petitions, based on the newly introduced right of an individual petition, is adopted and is functioning in line with the European standards.

### **Information society and Internet governance: Freedom of expression and Public broadcasting**

Progress was achieved in the creation of a public broadcaster, reform of state and communal printed reform of community-owned printed and local media and transparency of media ownership in Ukraine in recent years. The relevant legal framework has been developed and enacted. The registration of a legal entity of the public broadcaster (Public Joint-Stock Company National Public Broadcasting Company of Ukraine - PJSC NPBU) was completed in January 2017. The Statute of PJSC NPBU (adopted in December 2016) and the Regulations on Supervisory Board and Management Board (approved in the beginning of 2017) have been developed. The General Director and members of the Management Board of the public broadcaster were elected at transparent and competitive elections in April 2017.

Further support will be provided with developing procedures for improving the quality of content (especially for minorities, children and on gender issues), optimisation of structure and personnel of PJSC NPBU, capacity building of the Supervisory Board and implementation of the effective regional structure of public broadcaster. Expert advice on designing a regional structure of the public broadcaster will be offered as well.

The Council of Europe Institutional Mapping Analysis in the Sphere of Information Policy and Media in Ukraine, presented in September 2016, contains detailed conclusions and specific recommendations on how to eliminate the out-dated, dysfunctional and conflicting remits of the institutions operating in the media and access to information spheres. One of the main conclusions of the report is the need to adopt the Law on Audiovisual Services.

The Action Plan will help to continue practical implementation of the recommendations of the mapping report in the Sphere of Information Policy and Media in Ukraine.

The National Council of Television and Radio Broadcasting of Ukraine needs further support in its institutional reform, particularly in the areas of strengthening independence, decision-making and financial autonomy of the National Council of Television and Radio Broadcasting. Ensuring transparency of media ownership; development of effective regulatory instruments for monitoring media related violations during elections; development of effective system for protection of minors, women and national minorities; and developing policies in media sphere on gender equality and prevention of sexism are important elements of

the present Action Plan. Implementation of local media reform (print press, community media and communal TV and Radio) in discussion with local communities and authorities in context of decentralisation reform is another priority.

With regard to the safety of journalists in 2016, the Institute of Mass Information registered 264 cases of freedom of speech violations. The Council of Europe online Platform on Protection of Journalists,<sup>24</sup> which works as an early-warning and rapid-response mechanism for attacks on media freedom and journalists' safety, has received 10 alerts from Ukraine in 2016.<sup>25</sup> The recommendations of the two international conferences on the safety of journalists held in October 2016 and February 2017 will help to address this issue. Thanks also to these conferences and other awareness-raising activities, in January 2017, the Minister of Information Policy of Ukraine informed the Secretary General that Ukraine has introduced a means for responding more systematically to alerts posted on the Platform. Co-operation with the Ministry on this issue will continue during the Action Plan implementation period.

Special attention will be given to the development of the legislative framework on political advertisement and transparency of media financing.

Safety of journalism, ensuring necessary protection for journalists in a situation of threats of violence or damage to life, effective prevention and investigation of crimes against journalists would remain in the focus of the present Action Plan. Particular attention will be paid to the safety of journalists working in the area of conflict, including accreditation procedures, insurance of journalists working in zone of anti-terrorist operation, entrance of Ukrainian and foreign journalists to Crimea. Expert support in revising the articles of the Criminal Code in line with the Council of Europe standards will be provided along with a training of judges on European standards in the area of protection of freedom of expression.

Support will be provided by the Action Plan with regard to the implementation of relevant mechanisms related to guarantees of information space security and media pluralism. The issue of children's protection from harmful effect of media content is very pressing and needs to be addressed.

The Action Plan will help the authorities in organising an awareness campaign on the ratification of the Convention on Access to Official Documents (Tromso Convention) and further strengthening oversight body and mechanisms for access to public information.

### Expected outcomes

#### *Constitutional Justice*

- ✓ the adopted law on the Constitutional Court integrates relevant Venice Commission recommendations;
- ✓ the Constitutional Court is functioning in line with best European practices on constitutional justice;
- ✓ the procedure of constitutional complains to the Constitutional Court is improved in line with Venice Commission recommendations;
- ✓ the staff of the Constitutional Court is ready to work in accordance with the provisions of the new law taking into account the existing best international practice.

#### *Information society and Internet governance: Freedom of expression and Public broadcasting*

- ✓ the Law on Audiovisual Services is adopted in line with Council of Europe recommendations;
- ✓ the local media reform is implemented in the context of the decentralisation and in line with European standards and best practices;
- ✓ all legal and technical procedures for the Public service broadcaster are established, it provides balanced information to viewers and its ratings start growing;
- ✓ institutions operating in the media sphere are reformed based on the Council of Europe Institutional Mapping Analysis recommendations;
- ✓ the safety of journalists is improved, relevant preventive measures are being taken and authorities effectively investigate and prosecute crimes against journalists;

<sup>24</sup> About the Platform for the Protection of Journalism and Safety of Journalists, available at <http://www.Council of Europe.int/en/web/media-freedom/the-platform>

<sup>25</sup> Platform to promote the protection of journalism and safety of journalists, statistics on Ukraine, available at <http://www.Council of Europe.int/en/web/media-freedom/ukraine>

- ✓ public media contribute to awareness raising and prevention of gender violence, violence against children and discrimination of minorities;
- ✓ the capacity of the Regulator to ensure transparency of media financing is increased, effective mechanisms for handling violations in political advertising during elections are developed;
- ✓ awareness of the public about rights to access official documents is increased;
- ✓ the Tromso Convention is signed and ratified by Ukraine.

**Main national partners: the Presidential Administration, relevant Committees of the Verkhovna Rada, Ministry of Justice, Ministry of Interior, Ministry of Information Policy, the Constitutional Court, the Judiciary Reform Council, , the National Council of Television and Radio Broadcasting, National Public Broadcasting Company, State Committee for TV and Radio.**

### 2.3. Countering Threats to the Rule of Law

#### Fighting corruption, money laundering and financing of terrorism

In recent years, legislation on political party financing was enhanced and a new mechanism to prevent corruption in public administration was introduced. Nevertheless, the fight against corruption remains a challenge for democratic reforms in Ukraine. The Council of Europe contributed to enhancing institutional capacity of the NABU and the NACP. A key activity of the newly established NACP is the electronic asset declaration system for public officials, the so-called e-declaration system. This system, developed with the assistance of the United Nations Development Programme (UNDP), and adopted by the NACP members became functional in August 2016.

The amendments to the e-declaration legislation enacted in March 2017, required civil society representatives or other persons working on anti-corruption issues to declare their assets (“e-declaration”) in the same way as state officials or public servants. The Council of Europe Commissioner for Human Rights recommended authorities removing these provisions as unnecessary requirements which may single out anti-corruption NGOs. Expertise on adoption and training on implementation of legislation on whistle-blowers protection as an anti-corruption element are still needed.

On 9 March 2017, the HCJ arrived at a negative conclusion on the draft law on anti-corruption courts. In July 2017, the Venice Commission received a request to prepare an opinion on this draft law. The Council of Europe will offer specific assistance, in close co-ordination with other international organisations working in this field, in order to facilitate the overall monitoring of the implementation of anti-corruption reforms and continue to strengthen anti-corruption institutions.

Co-operation with the national authorities to promote good governance and to combat corruption will continue by enhancing compliance with GRECO [recommendations](#) and applicable international standards. The Council of Europe will support the authorities in assessing legislative initiatives, including the draft Civil Confiscation Law, proposed changes to legislation concerning the Public Prosecution, and legislative provisions regulating financial control of asset declarations. The accent will be put on developing the institutional and legislative capacities for asset recovery and management of confiscated assets. The capacities of the law enforcement and judiciary in fighting corruption and handling economic crime cases will be fostered.

**Expected outcomes**

- ✓ revised anti-corruption legislation in line with GRECO recommendations;
- ✓ legislation on whistleblowers protection is developed and adopted;
- ✓ increased capacities of the anti-corruption institutions (notably the NABU, the NACP, and the Asset Recovery and Management Agency) to effectively prevent and investigate corruption cases, and recover proceeds of corruption as well as for compensation of damage from corruption;
- ✓ increased capacities of the Service of Financial Investigations;
- ✓ increased capacity on anti-corruption and anti-money laundering for officials and future judges and prosecutors (legal education).

**Main national partners: NABU, NACP, the Service of Financial Investigations, Ministry of Justice, Asset Recovery and Management Agency, National School of Judges, Public Prosecution Office, Ministry of Interior, Security Service of Ukraine, State Financial Monitoring Service of Ukraine, National Prosecution Academy, relevant Committees of the Verkhovna Rada and School of Magistrates.**

**Cybercrime**

Ukraine adopted a Cybersecurity Strategy in 2016 followed up with yearly Action Plans. Considering the transversal nature of cybercrime, the implementation of the Strategy in relation to matters of cybercrime and collection of evidence in electronic form requires effective co-ordination and adequate training throughout the criminal justice system including police, security service, prosecutors, judiciary and other law enforcement agencies.

While Ukraine is a Contracting Party to the Convention on Cybercrime of the Council of Europe (Budapest Convention), the procedural powers required by this treaty, with appropriate safeguards and guarantees, are yet to be fully implemented in the criminal procedure legislation and related legal framework. Both police and secret service have investigative competencies related to cybercrime and electronic evidence in criminal investigations. This situation creates a ground for unnecessary duplication and overlap of competences.

With institutional structures for police-to-police and judicial co-operation in cybercrime and electronic evidence in place, problems of international co-operation due to gaps in domestic procedural law still need to be addressed.

The efficiency of co-operation with multi-national service providers regarding access to evidence in the cloud should be improved in line with existing and developing standards of the Council of Europe.

With substantive law largely in place, procedural law reforms underway and specialised cybercrime units and authorities for international co-operation operational, developing sustainable training modalities for law enforcement, prosecutors and judges is necessary for the effective and efficient implementation of the Budapest Convention.

**Expected outcomes**

- ✓ strategic approach to cybercrime and electronic evidence is maintained and mainstreamed into the work of law enforcement, security service, prosecutors and judges;
- ✓ criminal procedure legislation is in line with the Budapest Convention;
- ✓ investigative competencies on cybercrime and electronic evidence clearly divided between the law enforcement and security services;
- ✓ regular and productive interaction between criminal justice bodies and providers of telecommunication services is established;



- ✓ international co-operation is facilitated by eliminating relevant gaps in procedural legislation;
- ✓ Council of Europe standards on access to evidence in the cloud are enforced;
- ✓ training modules for staff of law enforcement institutions, prosecutors and judges on cybercrime and electronic evidence are developed and introduced in the curriculum of national training institutions.

**Main national partners: Public Prosecution Office, Ministry of Interior, Security Service of Ukraine, National Prosecution Academy, relevant Committees of the Verkhovna Rada, the Ministry of Information Policy, the authorities responsible for mutual legal assistance with regard to cybercrime.**

### III. Democracy

There is a need to reinforce the role of the Verkhovna Rada in the implementation of the main reforms, in particular those related to the protection of human rights. In addition, the capacity of the staff of the Verkhovna Rada to support the legislative work of its members needs to be strengthened.

Regarding the territorial reform, the adoption of legislation needs to be completed concerning municipal amalgamation and co-operation, fiscal decentralisation, the roles and responsibilities of local councillors and civil service at local level. Newly amalgamated communities will be supported to ensure their effective and accountable management of resources with special emphasis on training and management of human resources. The capacity building programmes for locally elected officials will continue. More activities will be organised in the territories under the control of the Ukrainian government in the Donetsk and Luhansk regions to strengthen the capacity of local authorities.

It is necessary to continue building consensus on the electoral reform. In this context, the Council of Europe will assist Ukraine to enhance the trust of the population in elections, increase the participation of women,<sup>26</sup> minorities, IDPs and youth in political processes and to effectively fight political corruption.

The Organisation will continue to facilitate the integration and further development of Education for democratic citizenship/Human rights education (EDC/HRE) in the national education system as well as support the implementation of the "Roadmap for reform: Youth Policy in Ukraine".

The Council of Europe, notably through its Venice Commission, will continue to support further strengthening of the Ukrainian political parties' system through the adoption of specific legislation and organisation of training activities aimed at promoting specific measures on internal democracy of parties, transparency of financing of political parties (including electoral campaigns) and their work in elected bodies.

#### 3.1. Strengthening Democratic governance

##### Co-operation with the Verkhovna Rada

The recent creation of a Sub-Committee of the Verkhovna Rada dealing with the oversight of the implementation of the ECtHR judgments results from technical co-operation with the PACE.

The Venice Commission in co-operation with the PACE will continue providing assistance to the Verkhovna Rada in revising its Internal Rules of procedure.

The PACE and the Venice Commission will also contribute to capacity-building activities for the members and staff of the Verkhovna Rada.

<sup>26</sup> Council of Europe Regional Study on women's political representation in the Eastern Partnership Countries, 2016 recommends for Ukraine that "the 30% quota for party lists in local elections is properly enforced by not registering lists that do not comply".

The PACE will focus its co-operation on empowering parliamentarians to improve the human rights approach; combating gender discrimination, including domestic violence; capacity building in policy-making procedures; and improving the inter-institutional collaboration and consultations with the civil society. A series of awareness raising activities for the members of the Verkhovna Rada already covered human rights protection, media freedom, anti-corruption, domestic violence and the policy-making process.

### **Democratic governance**

Local self-government and the decentralisation reform have been on top of the political agenda in Ukraine since 2014.<sup>27</sup> In 2016, the political commitment at the national level was reiterated in strategic documents.<sup>28</sup> Two waves of municipal amalgamations led to the creation of 413 new territorial communities by May 2017. Over 200 other new amalgamated municipalities are waiting for local elections to be held in order to become functional. The financial sustainability of local authorities is increasing due to financial decentralisation mechanisms first introduced in 2015 and expanded over 2016.<sup>29</sup>

Despite these achievements, the reform cannot be fully implemented (in particular in respect of the regions (“oblasts”) and districts (“rayons”) without the fundamental reform of local self-government and administrative-territorial structure, as well as the adoption of the constitutional amendments on decentralisation.

The reform of local government and decentralisation faces a number of challenges: lack of political consensus, corruption and excessive bureaucracy, low administrative capacity and lack of co-ordination within and between levels of government. The lack of gender-sensitive policies and practices at all levels remains a significant challenge. The decentralisation process should take into account the importance of ensuring effective representation of national minorities in the newly created municipalities. The transfer of the executive powers to the “rayon” and “oblast” councils is not feasible under the current Constitution and no institution is currently in charge of overseeing the compatibility of local authorities’ acts to the Constitution and laws of Ukraine.

While progress in respect of the legislation concerning municipal amalgamation and co-operation, fiscal decentralisation, civil service at local level have been assessed positively, many laws still need to be prepared and adopted. The Council of Europe will assist Ukraine in the revision of its legislation regarding the roles and responsibilities of local councillors, principles of territorial organisation, co-operation in metropolitan areas, strengthening accountability at local level, status and liability of local and regional elected representatives, and sectorial decentralisation.

The law creating a civil service at local level has not yet been adopted. The Organisation will continue to provide technical assistance helping central government to complement and improve the legal framework on civil servants and amalgamated communities to develop and make use of modern Human Resources Management tools. Ukraine has, furthermore, no nomenclature of public functions and no registry of civil servants. The Council of Europe will assist in developing online registry of local public servants, with multiple layers of accessibility and the possibility to identify needs (including for training).

The Council of Europe is ready to offer expertise, technical and logistic support to the Government of Ukraine in developing and subsequently implementing a modern National Training Strategy for local public servants.

In addition, the Council of Europe will continue work based on successful programmes implemented in the past including the “Best Practice Programme”, the “Leadership Academy”, the media contest for the best coverage of decentralisation issues and annual opinion polls on decentralisation. Financial incentives in the form of mini-grants for strengthening the capacities of amalgamated communities promoting inter-municipal

<sup>27</sup> The reform goals and priorities are framed by the Concept “On the reform of local self-government and territorial organisation of power” adopted by the Government on 1 April 2014 and its Action Plans for 2014, 2015 and 2016; the Strategy of Sustainable Development “Ukraine – 2020” approved by the President on 12 January 2015; the Parliamentary Coalition Agreement; and the Government Action Plan of 11 December 2014.

<sup>28</sup> On priority actions concerning local self-government development in Ukraine for 2017, and the Government draft Medium-term Action Plan of the Governmental Priorities till 2020.

<sup>29</sup> The municipalities’ own revenues increased by more than 3 times (comparing to the 2015), including personal income tax (24.9%, UAH 1745 million), land fee (8%, UAH 558 million), single tax (6.4%, UAH 447 million).

co-operation and improving the quality of municipal services will be also continued. The support offered to local state administrations and local authorities in the government controlled parts of Donetsk and Luhansk will continue and amplify according to current requests from the two oblasts.

The Congress intends to pursue its monitoring activities on local and regional democracy in Ukraine, in particular, in the framework of the post-monitoring dialogue process in order to assess steps already undertaken by Ukraine with regard to decentralisation reform (focusing on the amalgamations of municipalities and devolution of powers). The next systematic monitoring of the implementation of the European Charter on Local Self-Government is scheduled for 2019.

In addition to its political dialogue with national authorities, the Congress will further support decentralisation in Ukraine through the dissemination of the principles of the European Charter on Local Self-Government and through peer-to-peer exchanges on transparent and ethical decision-making, citizen participation, and women's participation in local politics. Thanks to the increasing co-operation with the Association of Ukrainian Cities, further activities for the promotion of a genuine consultation between central and local authorities will be implemented. The decentralisation process touches all spheres of life in Ukraine. Therefore, programmes implemented in this area will be co-ordinated with activities in such fields as protection of the rights of IDPs, minorities, women and children, reforms of the public media and electoral system as well as protection of social rights.

The Council of Europe will continue close co-ordination with other initiatives in support of local democracy in Ukraine, notably with Switzerland (DESPRO), the EU (e.g. U-LEAD and others), USAID (PULSE and DOBRE), Sweden, Germany and Canada (EDGE).<sup>30</sup>

## **Elections**

Reports on the observation of the early presidential elections and the early parliamentary elections by the PACE and of the local elections by the Congress recommended the revision of the electoral legislation.

In 2015-2017, the Venice Commission contributed to the exchanges of views between MPs, Ukrainian NGOs, national and international experts on the reform of electoral legislation and practice. However, the lack of a common position within the ruling majority on the future of the electoral reform represents a major obstacle to a change in legislation. Members of the Verkhovna Rada remain divided on the scope of the electoral reform and the choice of the electoral system. Moreover, the Verkhovna Rada has not yet appointed new members of the Central Electoral Commission, which could delay the reform.

In 2016, the Venice Commission adopted an Opinion on the Amendments to the Law on elections regarding the exclusion of candidates from party lists (CDL-AD(2016)018) at its 107<sup>th</sup> Plenary session (Venice, 10-11 June 2016). This Opinion underlines that the power of political parties to remove from their lists, after an election has taken place, candidates who at the time were "deemed unelected" but retain a potential to be elected, should be removed in the light of European standards.

Although the Council of Europe facilitated open discussion among national stakeholders and helped to form a common understanding of existing challenges related to free and fair media coverage of election, necessary changes to legislation and practices remain an issue. In this regard, the Council of Europe is ready to provide further its expert, methodological and technical support to strengthen independent and unbiased media coverage of elections.

The Organisation facilitated an exchange of views between parliamentarians and civil activists on gender balance in politics and electoral systems. Today, women make up just 12% of members of Parliament (MP) in Ukraine, compared to the worldwide average of 23%, according to data provided by the World Bank. Mechanisms should be devised to facilitate more balanced gender representation in the Ukrainian political and electoral system.

<sup>30</sup> DESPRO - Swiss/Ukrainian Decentralisation Support Project; U-LEAD- Ukraine Local Empowerment, Accountability and Development Programme; PULSE- project "the Policy for Ukraine Local Self-Governance"; DOBRE- project "the Decentralization Offering Better Results and Efficiency"; EDGE- the Expert Deployment for Governance and Economic Growth.

A roadmap was developed for improving the current system of investigation and reporting on violations during the electoral process for the consideration of the Ministry of Interior and the PGO. The road map also touches upon a number of possible improvements to the Criminal and Criminal Procedure Codes of Ukraine related to electoral violations. Further assistance to increase the effectiveness of the accountability mechanisms for electoral violations will be provided to Ukraine.

On 8 October 2015, the Verkhovna Rada adopted the Law of Ukraine on Amending Certain Legislative Acts of Ukraine as regards prevention and countering political corruption, whereas the establishment of public funding to political parties has been considered by GRECO<sup>31</sup> as a major achievement. An open discussion among national stakeholders facilitated by the Organisation brought into focus a public demand to improve current political parties and pre-election campaign legislation. Council of Europe is ready to provide further support in this respect.

The Organisation will continue to facilitate discussions of the electoral legislation with different stakeholders. These exchanges of views between MPs, representatives of political parties, national agencies, NGOs, and national and international experts should contribute to building consensus on the draft electoral law including different recommendations of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

The 2018-2021 period should be used to finalise a proper electoral reform, if possible, by the adoption of a comprehensive electoral legislation and to work on its implementation through targeted seminars, with electoral commissions as well as judges in charge of electoral disputes.

An issue of election administration, including professional competencies of election commissioners, possible usage of new technologies in electoral process, might become of greater importance in light of upcoming 2019 Presidential and Parliamentary elections. Thus, the Council of Europe remains ready to assist in improving electoral practice at national and local levels. Herewith, considering the ongoing process of municipal amalgamation, which is expected to require the organization of elections in 150-200 new communities per year, the Organisation remains ready to provide its assistance to national and local stakeholders (organisers, observers) with regard to local elections to be conducted in newly amalgamated communities.

In addition, expert support and analysis of initiatives related to the electoral rights of IDPs, in line with standards of the Council of Europe, will be provided at the request of the authorities. Development of the single legal doctrine regarding electoral law course at higher education institutions (work with students, Electoral Law School, electoral law olympiad) will be facilitated. Expert and methodological support to introduce electoral law basics and standards into the legal and civic education of last year school students ("first-time voters") will also be provided at the request of national authorities.

In 2018, the Congress will prepare a report on the situation of electoral rights at local level for IDPs and migrants in Council of Europe member States, taking into account international standards and good practices in electoral matters. In line with Congress' [Recommendation 386\(2016\)](#) and further to the observation of the local elections held after regular elections on 25 October 2015, special attention will be paid to the situation of IDPs in Ukraine.

### Expected outcomes

#### *Co-operation of the Verkhovna Rada*

- ✓ Verkhovna Rada's Rules and procedures are improved;
- ✓ parliamentarians from Ukraine better understand Council of Europe standards and policies (including those on gender equality and women's rights) and are empowered to protect and promote human rights through legislative initiatives and to monitor the implementation of the Council of Europe standards by the executive branch;
- ✓ the capacity of Verkhovna Rada's staff to support the preparation of the legislation needed for the adoption of reforms is increased;

<sup>31</sup> GRECO RC-III (2015) 22 E "Third Evaluation Round. Second Compliance Report on Ukraine. "Incriminations (ETS 173 and 191, GPC 2)". "Transparency of Party Funding" following the link: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282015%2922\\_Second\\_Ukraine\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282015%2922_Second_Ukraine_EN.pdf)

*Democratic governance*

- ✓ the legal framework and policy allowing for transferring or delegating competencies and resources to local authorities is in line with the Council of Europe standards and inspired from the best European practice;
- ✓ local authorities and elected representatives are equipped with knowledge and tools to conduct modern and effective management of resources;
- ✓ local authorities enhance their transparency to increase trust in local political actors and institutions among citizens;
- ✓ an effective consultation mechanism is established between central and local authorities;
- ✓ local authorities develop strategies and tools to promote and institutionalise a gender perspective at local level;
- ✓ local authorities establish constructive partnerships with youth for democratic innovations;
- ✓ national training system for civil servants at all levels is in line with European best practices and is gender-sensitive;
- ✓ the population is informed about decentralisation reforms aims and progress;

*Elections*

- ✓ electoral legislation and practice are in line with European standards;
- ✓ the trust in electoral process is increased.

**Main partners: Administration of the President, relevant Committees of the Verkhovna Rada, Secretariat of the Cabinet of Ministers of Ukraine, Ministry of Regional Development, Ministry of Education and Science, Ministry of Culture, Ministry of Youth and Sports, Central Election Commission, National Agency of Civil Service, National Academy of Public Administration, Kyiv City Council, National Local Government associations, high education institutions and NGOs**

### 3.2. Promoting Participation and Diversity

#### Civil Participation

In 2014, the Council of Europe started to promote the effective participation of civil society in Ukraine in the constitutional process and the legislative reform work and to assist in setting up mechanisms for organised civil society participation.

This work needs to continue and to be expanded in order to ensure that: the legal and institutional framework for the involvement of civil society in decision-making processes is aligned with Council of Europe and best international standards; a national strategy for promoting civil participation in decision-making is developed and implemented and the capacity of NGOs for influencing decision-making at the national level will be increased; civil servants are trained in the implementation of the law on public participation and other relevant legislation; platforms or mechanisms for dialogue and co-operation between public authorities and civil society will be created or reinforced.

#### Education for Democratic Citizenship, Youth Policy

The Organisation will continue to support the integration and further development of Education for democratic citizenship/Human rights education (EDC/HRE) in the national education system.

The Ministry of Youth and Sports currently implements a "Roadmap for reform: youth policy in Ukraine" and conducts open hearings on a new Law "About Youth" that will be a basis for youth policy in Ukraine (which is gender sensitive) throughout the country. The Organisation will support the Ministry in the implementation of the policy in a gender-sensitive manner. In addition, the partnership with the national campaign No Hate Speech Movement<sup>32</sup> will continue along with capacity building for authorities of Ukraine working with young people and for representatives of youth NGOs. Special attention will be given to the programmes on intercultural dialogue and protection of minority rights.

<sup>32</sup> See ECRI Report on Ukraine (fifth monitoring cycle): <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-V-2017-038-ENG.pdf>

The Organisation will continue to facilitate further implementation of the education reform in Ukraine, in particular, the adoption of the new law on education. Training of educators and students on EDC/HRE will improve the integration of human rights and democratic values in the national school system and trainings for teachers.

### Expected outcomes

#### *Civil Participation*

- ✓ civil society participation contributes to the transparency, effectiveness and sustainability of reforms and to their independent monitoring;

#### *Education for Democratic Citizenship, Youth Policy*

- ✓ enhanced capacity of educational professionals to teach and promote Education for Democratic Citizenship including through revised school curricula and to conduct gender analysis of the school curriculum and applying principles of democratic school governance and academic integrity;
- ✓ national policy and practice towards youth is aligned with the European standards and best practices, including those on gender equality.

**Main partners: Ministry of Education, Ministry of Youth and Sports, Kyiv City Council, NGOs, relevant authorities at national, regional and local levels.**

## Part III – Implementation

### 1. Methodology

The overall co-ordination of the technical co-operation implemented by the Council of Europe falls within the remit of the Office of the Directorate General of Programmes (ODGP) which steers the programming of and fund-raising for co-operation actions whilst ensuring the good functioning of the Council of Europe Offices in the field.

Action Plan projects are implemented by the Council of Europe's Major Administrative Entity responsible for the relevant area of expertise. The Council of Europe's Office in Kyiv<sup>33</sup> plays a key role in co-ordinating and supporting the implementation of the projects in the field, in accordance with the decentralisation policy applying to co-operation. As of June 2017, the Office's human resources counted 50 staff members.

The implementation of Action Plan projects involves, as necessary, needs assessments, legislative expertise, capacity-building, awareness-raising and peer-to-peer reviews. The methodology followed aims to reinforce the ownership of national stakeholders and to ensure the sustainability of the outcomes in line with the [Project Management Methodology](#) of the Council of Europe.

In addition, the co-operation designed by the Council of Europe follows a “multi-institutional approach”, which allows different Council of Europe's institutions and bodies to target governmental stakeholders, parliaments, independent governance institutions such as the Ombudsperson local and regional authorities, and civil society, in order to create a unique leverage for comprehensive, inclusive, successful and sustainable reforms.

Gender equality is mainstreamed throughout the Council of Europe's projects in accordance with the Guidelines on gender mainstreaming.<sup>34</sup> While more detailed gender mainstreaming will be done when the proposed actions of the Action Plan are further developed, some aspects of gender mainstreaming will be applied to certain activities independently from the area of co-operation. For example, while revising different national legislation and frameworks in line with European standards, the standards on gender equality and women's rights will be included. Gender will also be mainstreamed in trainings and curriculums. A gender impact assessment will be carried out when programmes and projects for the implementation are designed. In addition to gender mainstreaming, specific actions will be considered for the advancement of gender equality, when appropriate.

<sup>33</sup> <http://www.CouncilofEurope.int/en/web/kyiv>

<sup>34</sup> <https://rm.CouncilofEurope.int/CouncilofEuropeRMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680656cf0>

Similarly, the Organisation promotes the active participation of civil society in project activities in line with the Guidelines on civil society organisations participation in Council of Europe's co-operation activities<sup>35</sup> and the recommendations made by the conference "Partnership for Good Governance: enhancing the co-operation with civil society".

The Action Plan will also take into account the lessons learned during implementation of the Action Plan 2015-2017, including:

- the Council of Europe standards and principles are both means and goals of the technical assistance and as such can significantly contribute to the realisation of human rights;
- further enhancement is needed of the national capacity to plan and co-ordinate revision of the legislation and practices provided by the Organisation as well as effective oversight of implementation of reforms;
- long-term technical assistance in conducting comprehensive reforms requires long-term funding perspective and effective co-ordination mechanisms between national and international partners. Action Plan level funding also provides certain flexibility in terms of allocating funds where they are most needed;
- gender mainstreaming have had low priority at national level as well as in the programmes of the Organisation which resulted in insufficient allocation of resources and lack of systematic reporting. In order to reinforce efforts to promote gender equality there is a need to set clear goals, strengthen leadership, improve training, allocate more resources and ensure systemic reporting on gender issues;
- internal political turmoil in the country has impacted on the ability of certain activities to ensure sustainable change. An essential pre-condition for any successful reform is to ensure long-term sustained cross-party commitment to the overall objectives of the reforms.

Due to the nature of its mandate, the Council of Europe has to operate at times in complex and unstable environments which expose it to risks. The analysis of risks relevant to implementation of the Action Plan as well as possible mitigation strategies are identified in Appendix II of the present Action Plan on the basis of the Council of Europe risk management guidelines.

## 2. Co-ordination

Co-ordination to ensure an efficient use of resources and the relevance of the Council of Europe's actions is performed at different levels and in different forums, including the Committee of Ministers of the Council of Europe.

The Council of Europe's actions are worked out and implemented in areas where the Council of Europe has a strong expertise and added value. Joint co-operation with Ukrainian authorities is developed based on a thorough analysis of the objectives followed by other international organisations and actors in the field and their work, implemented and/or planned to achieve these objectives.

To ensure the relevance of its actions, the Council of Europe works in close co-ordination with relevant international partners, notably the European Union and in particular the EU Delegation and the EU missions and programmes in the country. The Action Plan takes into account the [Ukraine-European Union's Association Agreement](#) priorities, notably in such areas as rule of law and respect for human rights and fundamental freedoms, protection of personal data, money laundering and terrorism financing, fight against crime and corruption. Co-ordination is also ensured with the United Nations (UN) and the Organisation for Security and Co-operation in Europe (OSCE). Whenever appropriate, co-ordination platforms with other international organisations are set-up and joint activities undertaken. The Council of Europe also keeps close contact with development agencies of the Council of Europe member states.

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<sup>35</sup> <https://rm.CouncilofEurope.int/CouncilofEuropeRMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680656cef>

From 2015 Ukraine actively participates in the European Union/Council of Europe Partnership for Good Governance for Armenia, Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Belarus (PGG) for 2015-2017 which covers following areas: protecting and promoting human rights; ensuring justice; combating threats to the rule of law; addressing challenges of the information society; and promoting democratic governance. In this context, the Council of Europe Office in Kyiv holds bi-monthly follow up meetings with EU Delegation programming staff where all project activities under the PCF are reviewed and co-ordination and complementarity with EU projects ensured.

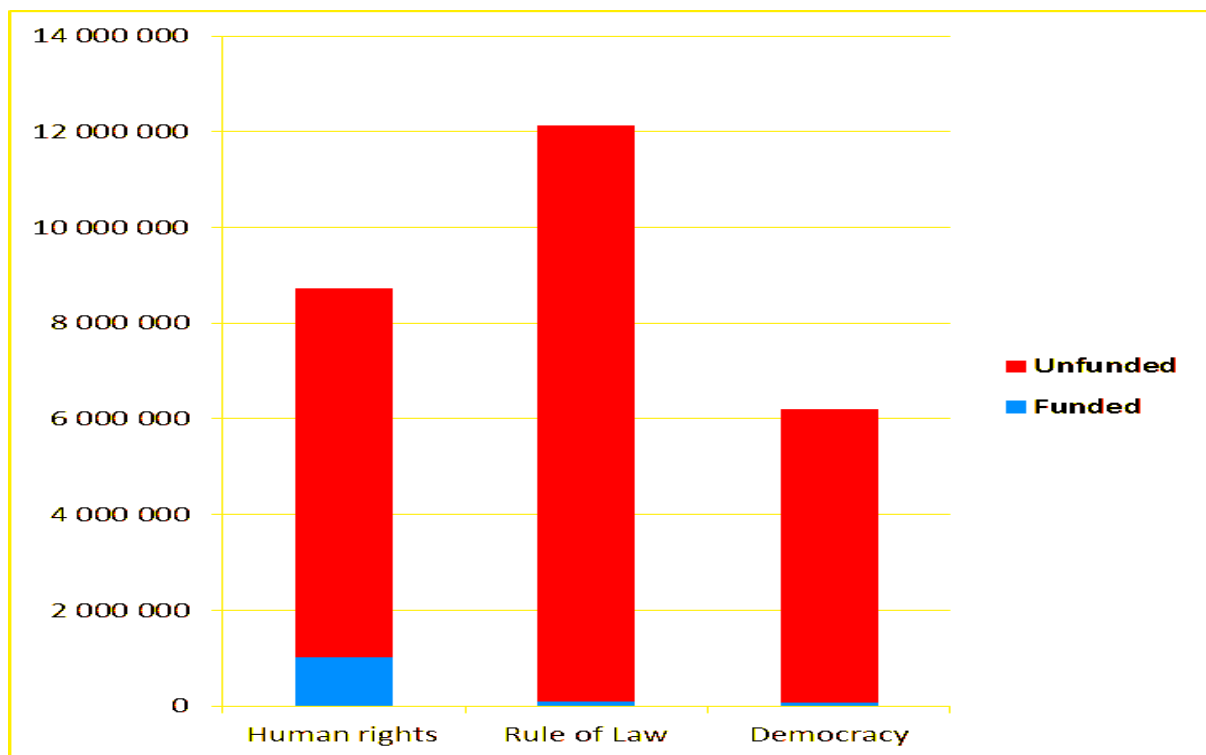
### 3. Funding

The co-ordination of the Action Plan implementation is carried out with the help of general management costs amounting to maximum 7% of the Action Plan's direct costs.

In line with the Council of Europe resource mobilisation strategy, fundraising efforts under the co-ordination of the Office of the Directorate General of Programmes are concentrated on the Action Plan as a whole.

The overall budget of the Action Plan is € 29 million. Funding amounting to €2.8 million has been secured.

Projects in the Action Plan are to be funded from multiple sources. Funding is to be provided from the Council of Europe's ordinary budget, as well as voluntary contributions from donor countries and international organisations, including the European Union/Council of Europe PGG.



**Figure 2:** Estimated budget per theme of the Council of Europe Action Plan for Ukraine 2018-2021, as of 2 October 2017

The present Action Plan structure from 2018 to 2021 is aligned with the structure of the Programme and Budget of the Council of Europe and is aligned with its biennial cycles in order to increase coherence, complementarity and co-ordination between activities within the ordinary budget of the Council of Europe and extra-budgetary technical assistance for Ukraine.

### 4. Action Plan Governance

The Committee of Ministers of the Council of Europe is responsible, through its Group of Rapporteurs on Democracy (GR-DEM), for the overall assessment of the Action Plan implementation.

The Council of Europe will provide regular updates on the progress and outcomes of the Action Plan. To this end, the ODGP will submit interim and final reports to the Committee of Ministers as follows:



- oral report 12 months after the adoption of the Action Plan, to present the state of advancement after the Action Plan's official launching;
- comprehensive mid-term Progress Review Report, 24 months after the adoption of the Action Plan;
- final Progress Review Report at the end of implementation of the Action Plan.

Progress made under the Action Plan will also be jointly assessed by the Council of Europe and the authorities of Ukraine. For this purpose, an Action Plan Steering Committee is established, composed of representatives of the Ministry of Foreign Affairs and other national stakeholders involved in the implementation of the Action Plan as well as of representatives of the Council of Europe.

This Steering Committee will assess the implementation of approved projects, discuss relevant proposals for future co-operation and challenges faced, and recommend any measures to improve the effectiveness of the Action Plan. Meetings will take place 24 months after the adoption of the Action Plan, to assess the mid-term implementation, and before the end of the Action Plan, to assess the overall implementation.

In addition, the ODGP will address annual Action Plan Reports to those donors contributing at the level of the Action Plan, in line with reporting requirements.

**Action Plan contacts**

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## Appendix I. Logframe of the CoE Action Plan for Ukraine 2018-2021

**Gender equality and civil participation** in decision making as transversal topics:

- **Gender equality** is mainstreamed throughout the Council of Europe's projects in accordance with the Guidelines on gender mainstreaming
- **Civil participation** in decision making is promoted by the Organisation in line with the Guidelines on civil society organisations participation in Council of Europe's co-operation activities.

**Overall goal:** to ensure successful reforms in Ukraine which will bring its legislation, institutions and practice further into line with European standards in the areas of human rights, the rule of law and democracy, and therefore support its efforts in meeting its obligations as a Council of Europe member State.

### Action Plan's areas of cooperation:

The Council of Europe will continue to support the authorities of Ukraine in progressing with (and completing where possible) the reforms undertaken in strategic areas, notably:

- Enhancing domestic implementation of the ECHR and the ECtHR case-law;
- monitoring, assessing and reporting about the reform impact in the justice sector;
- increasing effectiveness, accountability and transparency of the judiciary and the prosecution service;
- increasing transparency and effectiveness of the public administration;
- fighting corruption and money laundering;
- supporting further development of the free legal aid;
- strengthening the National Preventive Mechanism;
- improving conditions of detention and fighting ill-treatment, including through effective investigation;
- enhancing media pluralism and ensuring the safety of journalists;
- bringing policy and practice with regard to protection of the IDPs' rights in line with European human rights standards;
- enhancing information security, access to public information and personal data protection;
- increasing transparency of the political process and trust in electoral practices.

The Council of Europe and the authorities of Ukraine jointly agreed to extend and intensify cooperation on the basis of the more recent work carried out by the Council of Europe institutions, monitoring mechanisms and expert advisory bodies, notably:

- enhancing protection of the human rights of the population directly affected by the conflict;
- enhancing capacity of the Verkhovna Rada to revise legislative framework;
- countering discrimination on all grounds and protecting minority rights;
- increasing democratic participation in society;
- promoting equal opportunities for vulnerable groups;
- promoting gender equality and women rights;
- protecting and promoting children rights
- enhancing legal protection of social rights;
- developing legislative framework and capacity to tackle cybercrime;
- promoting human rights education/education for democratic citizenship through formal education, professional training and youth activities.

Human Rights	
Thematic outcome: enhancement of human rights protection, strengthening of anti-discrimination by supporting the further alignment of Human Rights policies and practice with European standards, including those on gender equality.	
Outcomes	Indicators
<p><b>I.1. Protecting Human Rights</b> Compliance of legislative and regulatory frameworks with European standards, increased capacity of judiciary, prosecution service, law enforcement, military and Ombudsperson to implement ECHR and ECtHR case-law at national level through: implementation of the National Human Rights Action Plan; enhancing operational capacities of the National Preventive Mechanism; enhancing institutional capacity to ensure access to public information and protection of personal data; improving public trust in judiciary; improving protection of the IDPs, women, children and minorities; enhancing human rights training for legal professionals.</p>	<ul style="list-style-type: none"> <li>• Extent to which national legislation is in place and/or amended in line with European Human Rights standards.</li> <li>• Institutional mechanisms and structures are in place and/or operational to effectively protect against ill-treatment, specifically by law enforcement and military, as well as to investigate ill-treatment in compliance with the European standards and requirements of the ECtHR judgments.</li> <li>• Level of knowledge about human rights standards and extent of their application by relevant professional groups in their work.</li> <li>• Degree of conformity with European standards of the legal framework on protection and promotion of minority rights</li> <li>• Relevant national training organisations have strengthened capacity to sustainably train their target groups on human rights standards.</li> <li>• Extent to which authorities and human rights defenders could report cases of human rights violations on the territories affected by the conflict.</li> <li>• Institutions dealing with access to public information and personal data protection are reformed in line with the Council of Europe standards. Status/degree of the execution of relevant ECtHR judgements with respect to Ukraine.</li> </ul>
<p><b>I.2. Promoting Human Rights and Dignity</b> Alignment of the Human Rights legislative and regulatory frameworks and practices with European standards to eliminate all forms of discrimination; improvement of the reporting on cases of discrimination; enhanced effectiveness to conduct investigation of cases of discrimination; enhanced access of IDPs to housing, sources of income and justice; enhanced capacity of the authorities to promote multilingual composition of the society (national minority languages in addition to Ukrainian) while maintaining social cohesion; adopted and implemented strategies to protect human rights of Roma.</p>	<ul style="list-style-type: none"> <li>• Extent to which national legislation is in place and/or amended in line with European Human Rights standards (criminal justice, non-discrimination, data protection).</li> <li>• Level of knowledge about human rights standards and extent of their application by relevant professional groups in their work.</li> <li>• Improved situation with practices of providing housing, access to documentation, employment, social benefits and justice system for IDPs at national and local level.</li> <li>• Laws against all forms of violence against women and children are developed and implemented in line with European standards.</li> <li>• Relevant national training organisations have strengthened capacity to initially and sustainably train their target groups on human rights standards.</li> </ul>

<p><b>I.3. Ensuring Social Rights</b> Better protection of the social rights in compliance with European standards ensured by the authorities; enhanced capacity to collect and analyse necessary data as regards the implementation of the accepted provisions of the European Social Charter, adopted legislative package for the collective complaints procedure.</p>	<ul style="list-style-type: none"> <li>• Extent to which national legislation is in place and/or amended in line with European standards.</li> <li>• Domestic legislation and practice in the field of social rights allows to accept the collective complaints procedure at the appropriate time.</li> </ul>
<p><b>Rule of Law</b> <b>Thematic outcome:</b> Enhanced implementation of the existing legislation, the legislative and institutional frameworks (judiciary, prosecution, penitentiary and police) are aligned with European standards, independence and accountability of the justice system are strengthened.</p>	
<p><b>Outcomes</b></p>	<p><b>Indicators</b></p>
<p><b>II.1. Ensuring Justice</b> Enhance and optimised legal and institutional frameworks in line with European and international standards; improved implementation of the relevant legislation; strengthened independence and efficiency of justice; improved domestic capacity to execute the domestic judgments and the judgments of the European Court of Human Rights; promoted rehabilitative approach in the criminal justice system; improved provision of health care in prisons and psychiatric institutions; prevented or effectively investigated cases of ill-treatment; improved effectiveness and independence of prosecutors, implementation of justice sector reform is monitored and assessed, and information of the public on its impact ensured. Right of individual petition to the Constitutional Court is fully operational.</p>	<ul style="list-style-type: none"> <li>• Extent to which national legislation is in place and/or amended in line with relevant European standards.</li> <li>• Institutional mechanisms and structures are in place and/or operational (e.g. self-governing bodies of judiciary and prosecution, investigative bodies).</li> <li>• Increased capacity to comply with the judgments of the ECtHR through establishing relevant framework for general and individual measures. Increased accessibility and quality of the free legal aid.</li> <li>• Justice sector institutions collect relevant indicators, assess the advancement of the reform and report their findings.</li> <li>• Extent to which women have equal access to justice, including equal protection of their rights by state institutions such as the police, prosecutors and courts.</li> <li>• Enhanced capacity of law enforcement to address violence against women and children and domestic violence as attested by criminal statistics and courts statistics.</li> <li>• Enhanced capacity of the law enforcement to address issues of ill-treatment and torture as witnessed by the statistics of such cases</li> <li>• Enhanced capacity of Ukraine to effectively investigate cases of ill-treatment, torture and other serious human rights violations as evidenced by the number of cases effectively resolved;</li> <li>• Level of knowledge about legislation and European standards and extent of their application by professional groups in their work.</li> <li>• Enhanced capacity of the Constitutional Court to deal with constitutional complaints.</li> <li>• Degree to which legal provisions and policies amended reflect CPT recommendations;</li> <li>• Status/degree of the execution of relevant ECtHR judgements with respect to Ukraine.</li> </ul>

<p><b>II.2. Strengthening the Rule of Law</b> Increased trust in electoral system through revised regulatory framework, effective checks and balances between powers and the principle of inter-institutional co-operation as well as delegation of legislative powers; ensured independence of the public service broadcaster and media pluralism at all levels. Increased capacity of the public media to provide unbiased and trustworthy coverage of the events. Raised public awareness and respect for freedom of expression and private life. Enhanced safety of journalists as a result of increased protection by the legal framework and practices as well as effective fight against impunity of those who attack them. Developed strategies in the area of information security in line with the European standards.</p>	<ul style="list-style-type: none"> <li>• New electoral legislation is adopted.</li> <li>• Extent to which legal framework and practices related to electoral system, checks and balances between powers and the principle of inter-institutional co-operation, the delegation of legislative powers are in line with European and international standards.</li> <li>• Extent to which national legislation and media regulation are in compliance with European standards, notably in the following areas: public-service media; independence of broadcasting regulators; transparency of media ownership; freedom of expression; information security.</li> <li>• Extent to which cases of attacks on journalists are effectively investigated and prosecuted.</li> </ul>
<p><b>II.3. Countering Threats to the Rule of Law</b> Legal and regulatory frameworks to fight corruption and money-laundering are revised in line with European and international standards; enhanced analytical and reporting capacity and reinforced co-operation among national and international specialised law enforcement and prevention systems. Enhanced capacity to address cybercrime by law enforcement.</p>	<ul style="list-style-type: none"> <li>• Existing legislative and institutional frameworks and practices to fight corruption, money laundering and cybercrime are in line with the European and international standards.</li> <li>• Extent to which public administration has capacity to plan, to allocate resources and to carry out complex actions, while combating mismanagement and corruption.</li> <li>• Extent to which accountability of public officials is reinforced through legal and reporting framework, organisational structure, strategy, procedures and actions.</li> <li>• Extent to which balance between the interests of law enforcement and respect for fundamental human rights and principles of rule of law is ensured while effectively fighting cybercrime.</li> <li>• Increased level of international co-operation in criminal matters related to fight against cybercrime.</li> </ul>
<p><b>Democracy</b> <b>Thematic outcome:</b> Enhanced democratic functioning of political institutions, increased accountability and quality of the legislative work of the Verkhovna Rada, modernised public administration at all levels with improved decision making capacity, effective management of resources and gender-sensitive policies and practices.</p>	
<p><b>Outcomes</b></p>	<p><b>Indicators</b></p>
<p><b>III.1. Strengthening Democratic Governance and Fostering Innovation</b> Increased accountability and quality of decision making, including legislative work of the Verkhovna Rada.</p> <p>Elections conducted in a transparent and impartial manner with election results fully accepted by citizens and politicians</p> <p>Enhanced capacity of public administration to implement legislation and policy effectively through optimisation of regulations, enhanced inter-institutional co-operation,</p>	<ul style="list-style-type: none"> <li>• Members of the Verkhovna Rada ensure good-quality national legislation which is cost-efficient, evidence-based, well understood by public.</li> <li>• Regular consultations between parliamentarians and members of the civil society on legislative process are in place.</li> <li>• Extent to which adopted legislation related to elections and political parties is in line with the European and international standards.</li> <li>• Level to which electoral process is improved through use of IT in election management, increased participation of women, minorities and youth and enhanced internal democratic functioning of political parties.</li> </ul>

<p>and improved public administration policies and practices.</p> <p>Improved quality of local self-governance through active participation of local authorities in the overall political decision-making system and effective consultation between central and local authorities.</p> <p>Enhanced capacities of local authorities to apply the standards of local democracy, in particular through ethical, transparent and participatory processes at local level, and to provide reliable and effective public service through enhanced inter-municipal cooperation, citizens' participation and modern public management practices.</p> <p>Special attention is allocated to newly amalgamated communities and communities in the areas affected by the conflict on the government-controlled territories.</p>	<ul style="list-style-type: none"> <li>• Level of efficiency, transparency and compliance with ethical standards of the governance at national and local level.</li> <li>• Extent to which human resources management at local level is in line with European good practices.</li> <li>• Extent to which data collection and evaluation of gender equality by national stakeholders is achieved at all levels.</li> <li>• Improved consultation mechanisms between central and local authorities.</li> <li>• Level of inclusion of citizens in decision-making processes at local and regional levels.</li> <li>• The 30% quota for party lists in local elections is properly enforced by not registering of candidates included to the lists that do not comply.</li> </ul>
<p><b>III.2. Promoting participation and diversity</b> Promoted democratic values, student self-governance and prevention of all forms of discrimination in educational system (universities and schools). Similar initiatives are introduced in the youth sector to prevent all forms of discrimination.</p>	<ul style="list-style-type: none"> <li>• Number of educational programmes (formal and informal) introduced in the selected institutions and regions in line with Education for Democratic Citizenship and Human Rights Education (EDC/HRE) standards.</li> <li>• Number of national initiatives in supporting academic integrity and transparency.</li> <li>• Level of awareness among young people about the need to prevent all forms of discrimination especially against minorities.</li> </ul>

## Appendix II. Risk assessment

Scenarios	Mitigation strategies
<b>Risks related to the political context</b>	
<p>Best case scenario- increased scope and pace of reforms, political solution to the conflict found</p> <ul style="list-style-type: none"> <li>• Consensus among wide political spectrum on reforms is established</li> <li>• Reforms and existing legislation are effectively implemented and supported by the population. A political solution to the conflict is found</li> </ul>	<p>Increased awareness raising about the Council of Europe involvement in the reforms process</p> <p>Extended capacity-building activities, especially for the partners promoting standards of the Council of Europe</p> <p>Stronger support to national institutions, extending support to regions, specifically those affected by the conflict</p>
<p>Base case scenario- sustained political stability, frozen conflict</p> <ul style="list-style-type: none"> <li>• Partial implementation of reforms and opposition to their implementation in certain groups of the society</li> <li>• Increased influence of political forces in ongoing reforms</li> </ul>	<p>Support national authorities to ensure compliance of legislative and regulatory frameworks with the standards of the Council of Europe</p> <p>Build capacity of institutions to implement these standards, enhance awareness of the population on those standards</p> <p>Raise awareness of institutional partners who promote standards of the Organisation among population</p> <p>Facilitate contacts and co-operation between supporters of the reforms within different branches of the power and within civil society</p>
<p>Worst case scenario- increased political instability/ absence of reforms; escalation of the conflict</p> <ul style="list-style-type: none"> <li>• Increased polarisation of the society</li> <li>• Increased level of hostilities</li> <li>• Reform process slows down or stops</li> <li>• Worsened social situation specifically of the vulnerable groups</li> </ul>	<p>Awareness raising among target groups to sensitise them on importance of application of the standards of the Organisation</p> <p>Promote dialogue between authorities and civil society on application of the standards</p> <p>Focus on protection of rights of the vulnerable groups</p> <p>Discuss mitigation strategies with international partners (EU in particular)</p>
<b>Project/programme related delivery risks</b>	
<ul style="list-style-type: none"> <li>• Lack of sufficient funding for implementation of the Action Plan</li> </ul>	<p>Increase resource mobilisation efforts in coordinated manner within the country and from the headquarters</p> <p>Allocate funding for programmes which have strong potential for synergy with each other, scheduling available resources in the most effective manner</p> <p>Continue to address feedback from partners and donors to improve project design, implementation, results-based monitoring, and reporting practices to attract and maintain donors</p>
<ul style="list-style-type: none"> <li>• Lack of effective co-ordination mechanisms with national and international partners to avoid overlaps and to ensure synergies among programmes</li> </ul>	<p>Increased number of joint activities with international partners with whom co-ordination of plans is already achieved and in order to strengthen common message, achieve economic efficiency and increase acceptance of the reforms</p>

<ul style="list-style-type: none"> <li>Lack of predictability and sustainability of the results due to complexity and often conflicting goals of the reforms process</li> </ul>	<p>Interactive results-oriented monitoring of the programmes to measure improvements in the legal frameworks, institutional settings and policies; provide relevant statistics; assess level of public awareness and allow time to adjust implementation if necessary.</p> <p>Continued decentralisation of the programmes implementation with distribution of decision making to the units low down the hierarchy; transparency of the decision making process; engagement of local institutions and expertise; support networking of programmes, national and international partners, adoptive, incremental and realistic approach to support emerging positive changes rather than idealistic plans</p>
<ul style="list-style-type: none"> <li>Gender stereotypes affect negatively the project implementation</li> </ul>	<p>Gender-sensitive communication, gender expert should check the materials and propose new language.</p>
<p><b>Communication related risks</b></p>	
<ul style="list-style-type: none"> <li>Lack of transparency and consensus on priorities and scope of the programmes among international partners</li> </ul>	<p>Increase scope and consistency of communication to inform professional groups, international partners and general public about contribution of the Organisation and donors to the reforms</p>
<ul style="list-style-type: none"> <li>Lack of knowledge among main international and national partners, target groups and general population about Council of Europe contribution to the reforms in the country</li> </ul>	<p>Every programme develops its communication strategy to foster interest in the activities of the Organisation among major stakeholders; increase professional and public awareness of the Organisation contribution to the reforms; and increase the speed at which information is exchanged</p>



### Appendix III. Financial table of the Council of Europe Action Plan for Ukraine 2018-2021

(in Euros, as of 3 October 2017)

Sectors	Action Plan budget	Funded Ordinary Budget	Funded EU <sup>36</sup>	Funded Voluntary Contributions	Total funds secured	Unfunded
<b>Human rights</b>	<b>8 716 667</b>	<b>41 677</b>		<b>966 667</b>	<b>1 008 344</b>	<b>7 708 323</b>
1. Protecting Human Rights	5 266 667			966 667	966 667	4 300 000
2. Promoting Human Rights and Dignity	2 650 000	41 677			41 677	2 608 323
3. Ensuring Social Rights	800 000					800 000
Regional PGG						
<b>Rule of Law</b>	<b>12 127 013</b>	<b>100 000</b>			<b>100 000</b>	<b>12 027 013</b>
1. Ensuring justice	8 160 000					8 160 000
2. Strengthening the Rule of Law	3 675 347	100 000			100 000	3 575 347
3. Countering Threats to the Rule of Law	150 000					150 000
Regional PGG	141 666					141 666
<b>Democracy</b>	<b>6 612 000</b>	<b>80 000</b>			<b>80 000</b>	<b>6 532 000</b>
1. Strengthening Democratic Governance and Fostering Innovation	5 612 000	30 000			30 000	5 582 000
2. Promoting participation and diversity	1 000 000	50 000			50 000	950 000
Regional PGG						
General management costs	2 000 000					2 000 000
UNEARMARKED (not yet allocated)				1 624 597	1 624 597	-1 624 597
<b>TOTAL</b>	<b>29 455 680</b>	<b>221 677</b>		<b>2 591 264</b>	<b>2 812 941</b>	<b>26 642 739</b>

<sup>36</sup> The funding of the activities in Ukraine in 2018 within the framework of the the European Union/Council of Europe co-operation is under negotiation.

## Appendix IV: List of sources / relevant documents

### Council of Europe's documents

#### 1. European Court of Human Rights

European Court of Human Rights' case-law in relation to Ukraine

Compilation of case law of the European Court of Human Rights on gender equality issues

#### 2. Technical co-operation with Ukraine

Co-operation with Ukraine – Immediate Measures Package

Action Plan Ukraine 2011-2014

Action Plan Ukraine 2015-2017

Co-operation with Ukraine – Immediate Measures Package : Interim Narrative Report April - August 2014

Action Plan Ukraine 2011-2014, Final Report AP Ukraine 2011-2014, Final Report

Co-operation with Ukraine – Immediate Measures Package : Final Narrative Report (April - December 2014)

#### 3. Secretary General of the Council of Europe

Reports by the Secretary General of the Council of Europe State of democracy, human rights and the rule of law in Europe for the years 2014, 2015, 2016 and 2017

#### 4. Committee of Ministers of the Council of Europe

Decision on Situation in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)

CM/Del/Dec(2017)1285/2.1bisb

#### 5. Parliamentary Assembly of the Council of Europe

Resolution 2145 (2017) on The functioning of democratic institutions in Ukraine

Resolution 2133 (2016) on Legal remedies for human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities

Resolution 2132 (2016) on Political consequences of the Russian aggression in Ukraine

Recommendation 2090 (2016) on The humanitarian concerns with regard to people captured during the war in Ukraine

Recommendation 2076 (2015) on Missing persons during the conflict in Ukraine

Parliamentary Assembly Opinion 190 (1995) on the application by Ukraine for membership of the Council of Europe

Recommendation 1849 (2008) of the Parliamentary Assembly for the promotion of a culture of democracy and human rights through teacher education

#### 6. Congress of Local and Regional Authorities of the Council of Europe

Congress Recommendation 348(2013) on local and regional democracy in Ukraine

Roadmap for the implementation of the Congress Recommendations in Ukraine (2015)

The Congress Report CG30(2016)07 on the observation of local elections in Ukraine (25 October 2015)

#### 7. Council of Europe Monitoring and expert advisory bodies

ECRI Report on Ukraine (fifth monitoring cycle)

ECRI's Conclusions on the Implementation of the Recommendations in respect of Ukraine subject to interim follow-up

Fourth report submitted by Ukraine pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities

Advisory Committee on the FCNM's ad hoc report on the situation of national minorities in Ukraine

European Committee of Social Rights Conclusions 2016 on Ukraine

Joint Opinion of the Venice Commission, the Directorate of Human Rights of the Directorate General Human Rights and Rule of Law on the Draft Law on the Public Prosecutor's Office of Ukraine

Opinion on the Proposed Amendments to the Constitution of Ukraine regarding the Judiciary as approved by the Constitutional Commission on 4 September 2015

Venice Commission's Opinion on the draft Law on the Constitutional Court of Ukraine

Joint Opinion of the Venice Commission, the Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights, on two Draft Laws on Guarantees for Freedom of Peaceful Assembly

Venice Commission's Opinion on the Amendments to the Law on elections regarding the exclusion of candidates from party lists adopted by the Council of Democratic Elections and by the Venice Commission

GRECO Third Evaluation Round Second Compliance Report on Ukraine (Incriminations ETS 173 and 191, GPC 2; Transparency of party funding)

Report to the Ukrainian Government on the visit to Ukraine carried out by the CPT from 21 to 30 November 2016

Executive summary of the CPT Report to the Ukrainian Government on the visit to Ukraine carried out by the CPT from 21 to 30 November 2016

Progress Report on Ukraine, MONEYVAL, 18 September 2015

Written Analysis by the Secretariat of Core and Key Recommendations for Ukraine, MONEYVAL, 18 September 2015

## **8. Guidelines**

Guidelines on gender mainstreaming in Council of Europe's co-operation activities

Guidelines on Civil Society Organisations' participation in Council of Europe's co-operation activities

## **9. Commissioner for Human Rights of the Council of Europe**

The Commissioner's letter addressed to the Deputy Head of the Administration of the President of Ukraine with recommendations to revise the anti-corruption legislation that might negatively affect NGOs and journalists

Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Ukraine from 21 to 25 March 2016

Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Ukraine from 29 June to 3 July 2015

The Commissioner's letter addressed to the Chairperson of the Parliament of Ukraine with recommendations to secure the independence of the Ombudsman institution

## **10. National policy documents of Ukraine**

Strategy for Sustainable Development "Ukraine 2020"

Medium-Term Government Priority Action Plan up to 2020

Action Plan to Implement the National Human Rights Strategy of Ukraine by 2020

Ukraine Judiciary Development Strategy 2015-2020

Action Plan On implementation of some principles of state internal policy on certain areas of the Donetsk and Luhansk regions outside the control of the Government of Ukraine

Resolution of the Cabinet of Ministers of Ukraine of 14 May 2015 № 450, Kyiv, on approval of the Action plan to ensure the implementation of the European Social Charter (revised) for the period 2015-2019

Concept of the State Social Programme to ensure Equal Rights and Opportunities for Women and Men (2017-2021)

The New Ukrainian School – Conceptual Principles of Secondary School Reform (2016-2029)