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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Ukraine

Information note by the co-rapporteurs on their fact-finding visit to Kyiv (19 to 21 November 2018)

Co-rapporteurs: Ms Dzhema Grozdanova, Bulgaria, Group of the European People's Party and Mr Alfred Heer, Switzerland, Alliance for Liberals and Democrats for Europe

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¹ Document declassified by the Monitoring Committee at its meeting on 23 January 2019.

1. Introduction

1. The main focus of this visit was the ongoing developments with regard to the fight against corruption, especially following adoption of the Law on the High Anti-Corruption Court, as well as the preparations for the upcoming election cycle in 2019, when both Presidential and Parliamentary elections will be organised in Ukraine. The rapporteurs for Ukraine have changed since the last visit. On 24 April 2018, Ms Dzhema Grozdanova (Bulgaria, EPP/CD) was appointed to replace Mr Axel Fischer, who had ceased to be a member of the Assembly in January 2018, and on 11 October 2018, Mr Alfred Heer (Switzerland, ALDE) was appointed to replace Mr Kross who had left the Assembly in the summer of 2018.

2. During this visit we met with, inter alia, the Speaker of the Verkhovna Rada; the Deputy Foreign Minister; the Deputy Minister of Justice; the Specialised Anti-Corruption Prosecutor; the Head of the National Anti-Corruption Bureau; the President and members of the Central Election Commission; the Ukrainian Parliament Commissioner for Human Rights (Ombudsperson); the Deputy Head of the National Agency for Prevention of Corruption; the First Deputy Chairperson and members of Anti-Corruption Committee of the Verkhovna Rada; the Chairperson and members of the Ukrainian Delegation to PACE; the leaders, or their representatives, of all parliamentary factions in the Verkhovna Rada; as well as members of the diplomatic community and representatives of civil society organisations in Ukraine. The programme of our visit is attached to this note in Appendix 1.

3. We would like to thank the Verkhovna Rada for the organisation of our programme, and the Head of the Council of Europe Office and his staff for the support given to our delegation. We also wish to express our gratitude to the Ambassador of Switzerland in Kyiv for the hospitality extended. The statement issued at the end of the visit is attached in Appendix 2.

2. Political climate

4. In 2019 both Presidential and Parliamentary elections will take place. According to the opinion polls both races are wide open and could potentially change the political landscape in the country. The current political environment is therefore already dominated by the preparations for the upcoming elections and the processes of alignment of the different political forces in them. This in turn has resulted in a slowdown of the different reform processes in the country.

5. The most recent report² on the functioning of democratic institutions in Ukraine, acknowledged the hardening of political discourse and political environment, especially towards parties and persons that are seen as supportive of Russia and its interests. In addition, members of opposition parties and especially the Opposition Bloc have at times complained that the rights of the opposition are not sufficiently respected by the ruling majority and have reported cases of alleged harassment and intimidation of opposition supporters. These allegations are denied by the ruling majority who allege that they are made for politically strategic and tactical purposes. While in some cases this may be true, there have been a number of well documented cases of violence and aggression, especially against civil society activists active in the fight against corruption (see below) as well as media outlets and journalists that are seen as sympathetic to Russia. These cases do not seem to be effectively investigated by the authorities and the apparent impunity for such actions is of serious concern, especially in the context of the increasingly polarised and competitive environment in the run up to next year's Presidential and Parliamentary elections.

6. With regard to the respect for the rights of the opposition and the division of committee chairmanships, as well as other leadership positions in the Verkhovna Rada, among the different factions, we were informed that there is currently no specific law governing the rights of the opposition. Previously there had been such a law, which specified the inter alia, the distribution formula for leadership positions in the Verkhovna Rada and committee chairmanships among the different political factions. However, this law had been abolished during the Yanukovich administration. Since then the allocation of leadership positions in the parliament has been based solely on political negotiations between the different factions. Although all factions had been offered committee chairmanships following the last elections, the number and the committees offered had not always been to the liking of the individual factions concerned. Reportedly this had led the Opposition Bloc to refuse the positions it was offered. We would encourage the Verkhovna Rada to consider adopting a new law that, inter alia, clearly outlines the manner in which leadership positions in the Verkhovna Rada are distributed, especially given the possibility of an even more fragmented parliament following next year's elections.

² [Doc 14227](#) (2017).

7. As we outlined in our previous information note, the Verkhovna Rada adopted, on 3 March 2017, a number of amendments to the laws governing the system of electronic asset declarations for public officials (the so-called e-declaration system). As a result of the adopted amendments, anti-corruption activists are now required to file the same e-declaration as public officials. This new provision was decried by civil society and the international community who were concerned that these new provisions would have a chilling effect on anti-corruption organisations and activists. President Poroshenko announced that the contentious provisions would be abrogated by two new laws prepared by the Presidential administration on enhanced financial reporting obligations for civil society organisations: laws no. 6674 and no. 6675. However, these laws turned out to be extremely problematic in themselves³ and concerns were raised about their compatibility with provisions in the European Convention of Human Rights on freedom of association and prohibition of discrimination.

8. Concerned about their impact, the Monitoring Committee requested an opinion of the Venice Commission on these two laws. In its opinion, the Venice Commission expressed its concern that the new financial disclosure regime, which it considers burdensome, would be in conflict with several human rights and fundamental freedoms, in particular freedom of association. Concerned that these requirements could have a chilling effect on civil society and endanger the continued existence of a number of NGOs, the Venice Commission recommended that these two laws be reconsidered in their entirety or – as a minimum precautionary measure – be substantially changed and narrowed down to “to ensure that they fully respect international standards pertaining to the freedom of association, the right to privacy and the prohibition of discrimination and are based on compelling evidence that they are necessary in a democratic society and proportionate to a legitimate aim”⁴.

9. With regard to the original e-declaration requirements for anti-corruption activists that were introduced by law 6172, the Venice Commission noted in particular the absence of a clear definition of what would constitute “activities that are linked to preventing and countering corruption”. This could potentially cover an extremely wide range of persons and organisations as well as activities, in contradiction with the requirements under article 11 of the ECHR on freedom of association. Moreover, it was felt that the authorities failed to justify the extension of the e-declaration regime to anti-corruption activists and organisations, and the fact that they were singled out from other activities and organisations violates the prohibition of discrimination as outlined in the Convention.

10. Despite the Venice Commission recommendations, the draft laws no. 6674 and no. 6675 were adopted by the Verkhovna Rada in first reading. The authorities indicated that the recommendations of the Venice Commission would be addressed in amendments on the draft laws when they would be discussed in second reading. However, since the last visit the adoption process has stalled in the Verkhovna Rada and the provisions regarding the e-declarations for anti-corruption activists have remained valid. As a result, on 1 April 2018, anticorruption activists had to file their e-declarations, and many have done so. However, during our visit we were informed by civil society representatives that it is not clear who is concerned by this law and who is not, which heightens the chance of people mistakenly not filing a declaration. We are extremely concerned that these amendments have not been abrogated, despite them being clearly in contradiction to European standards and norms, and despite the repeated promises of the leadership of many factions to the contrary. We therefore urge the authorities to abolish, as soon as possible, the e-declaration requirements for anti-corruption activists.

11. Since the last visit there has been a steep increase in attacks on civil society activists and journalists⁵. One of the most shocking of these has been the acid attack in Kherson, on 31 July 2018, against anti-corruption activist Kataryna Handziuk, who died from her injuries on 4 November 2018. The perpetrators of this horrendous crime are still at large and there is mounting criticism of the handling of this case by the law enforcement agencies. In reaction to the public outcry following the death of Ms Handziuk, the General Prosecutor of Ukraine, Mr Yuriy Lutsenko offered to resign from his position but this was not supported by either President Poroshenko, or by the majority of political forces in the Verkhovna Rada. It is our strong conviction that there can be no impunity for such heinous crimes. Therefore, during our visit we have repeatedly called upon the authorities to fully, and promptly, investigate the murder of Ms Handziuk, as well as all other attacks against journalists and civil society and political activists.

12. Especially in the context of the ongoing information war with Russia, there has been increasing pressure on media outlets that are seen to be supportive of Russian interest or tools of Russian propaganda. In the

³ It has some resemblance to similar laws in Russia and Hungary which were equally decried by the international community. ⁴ CLD(2018)001 § 13 B.

⁴ CLD(2018)001 § 13 B.

⁵ At the time of our visit there had already been 40 cases in 2018. In 2017 the total number of cases was 55.

beginning of October, the Verkhovna Rada adopted a resolution calling, inter alia, for the relevant executive authorities to investigate whether or not the withdrawal of broadcasting licenses of two media outlets (NewsOne and Channel 112) would be warranted. As mentioned in the report on the functioning of democratic institutions in Ukraine, Doc 14227 (2017), while the concerns by the Ukrainian authorities about Russia's propaganda and information war are legitimate and understandable, actions limiting media freedom should only be taken as measures of last resort. Most interlocutors we met pointed at the lack of clarity regarding the exact ownership of these two media outlets, as required by law, but emphasised that no sanctions were (yet) in place. At the same time, there have been reports of attacks on and suspicious deaths of, a number of Russian dissident journalists who have sought refuge in Ukraine, especially those that have been openly critical of Russia's illegal annexation of Crimea and its military operations in Eastern Ukraine. In a very controversial action, the Ukrainian secret services staged the murder of Russian dissident journalist Arkady Babchenko, with the aim of catching persons recruited by the Russian secret services to kill Mr Babchenko. While the operation was reportedly successful in catching the persons ordering the killing many journalist organisations understandably condemned this operation as being harmful for the safety of journalists in general.

13. There are a broad range of private media outlets operating in Ukraine, most of which are seen as furthering the political and financial interests of their owners. While the wide range of media outlets available in Kyiv and other large cities in general ensures a pluralist media environment in large urban centres, this is not the case elsewhere. In view of this perspective, many of the media representatives and civil society organisations we met during our visit expressed their concern about the lack of transparency of media ownership in Ukraine and underscored the important role of the public broadcaster as an independent public news provider. According to Ukrainian legislation, the public broadcaster receives a fixed percentage of the GNP from the state budget to cover its operating costs. However, due to the financial situation in the country and the costs of Russia's military aggression in Eastern Ukraine, the Verkhovna Rada is reportedly considering not earmarking the total amount of money due to the Public Broadcaster. The possibility that the budget for the Public Broadcaster will be considerably reduced is controversial, especially in the context of 2019 being an election year. While recognising the difficult financial situation of the country, we urged the Verkhovna Rada to ensure that the Public Broadcaster has sufficient resources to ensure its news provision functions as well as its legal obligations as stipulated in the electoral legislation.

3. Preparations for the 2019 Election Cycle

14. The Presidential elections are scheduled for 31 March 2019 and parliamentary elections are foreseen in October 2019. As mentioned in several previous reports, Ukraine has a different legal framework for each type of election: Presidential; Parliamentary and Local as well as for referendums. These individual legal frameworks meanwhile are not mutually compatible⁶. For that reason, it has been a long-standing recommendation of the Assembly and the Venice Commission for the Verkhovna Rada to adopt a Unified Election Code (UEC). A draft unified election code has been prepared with the help of the Venice Commission and it has been adopted in first reading in the Verkhovna Rada. However, we were informed that more than 4000 amendments on this draft have been tabled. There is currently no clarity about the timeline for a possible adoption following a second reading, but in any case, this will not be possible before the upcoming elections. In this context we also wish to underscore the international norms and standards with regard to the stability of election legislation which prohibit substantial changes to electoral legislation in the period before the elections.

15. The 2019 Presidential and Parliamentary elections will therefore take place under the current "old" election legislation. The Central Election Commission (CEC) informed us that, due to the many changes to the country's overall legal framework, there are many inconsistencies in the electoral legislation. In order to ensure the proper conduct of elections, without having to fall back on CEC decrees, the CEC has proposed a series of technical amendments to the existing legislation. We hope that the Verkhovna Rada will adopt these amendments promptly, also in order not to fall afoul of the above mentioned international standards for a stable election legislation. The CEC also shared its concerns about the possibility for Internally Displaced Persons (IDPs) to participate in the elections. While this should not be problematic for the Presidential elections, under the current legislation IDPs would be de facto disenfranchised from local and parliamentary elections. This is especially concerning the large number of IDPs in Ukraine resulting from the ongoing military aggression in Eastern Ukraine. We therefore called upon the Verkhovna Rada to promptly adopt the necessary legislation that will allow IDPs to vote in all elections in Ukraine.

⁶ Under the current legal framework, it would for example be de facto impossible to organise Presidential and Parliamentary elections on the same day.

16. On 20 September 2018 the Verkhovna Rada appointed 14 new members of the Central Election Commission⁷. The new CEC is composed of 6 members of the Block Petro Poroshenko; 3 members of the People's Front; and 1 member of each Batkivschyna, Vidrozhennia, Samopomich, People's Will and Radical Party. The Opposition Bloc was offered one seat on the CEC. However, the Opposition Bloc felt that that, taking into consideration the size of its faction, it should have at least two seats on the CEC and refused to nominate a candidate for the single seat it was offered. During our meeting with the leadership of the Opposition Bloc we urged them to reconsider the Bloc's position and to nominate a representative on the CEC in order to ensure that the interests of all political factions are heard. We were informed, and welcome, that the party is indeed considering taking up its seat. While the CEC members are proposed by the different political parties, we were informed that most appointees are generally recognised election experts with considerable technical experience and know-how.

17. Understandably, in the context of the geopolitical situation the country finds itself in, most interlocutors expressed their concern about covert interference in the electoral process by the Russian Federation and the possible impact this could have on the democratic stability of the country.

4. Fight against corruption

18. The fight against the wide spread corruption in Ukraine is a stated priority of the authorities. In Resolution 2145(2017) the Assembly underscored the importance of the fight against corruption for the overall democratic consolidation in the country. In that respect, it welcomed that most structures to fight corruption had been put in place but expressed concern about the limited concrete results and slow pace of these reforms. It stressed that the newly established structures should now lead to concrete and tangible results on the ground.

19. The institutional framework for the fight against corruption was outlined in detail in the previous information note. To recall: a four-tier set of institutions has been set up to implement the anti-corruption strategy: the National Anti-Corruption Bureau (NABU), the Specialised Anti-Corruption Prosecutors Office (SAPO); the National Agency for the Prevention of Corruption (NAPC), and since recently the High Anti-Corruption Court (HACC). The first institutions are technically fully operational while (HACC) is in the process of being established following the adoption of Law #6011 on Anti-Corruption Courts in June 2018 (see below).

20. Some of the Venice Commission recommendations with regard to the High Anti-Corruption Court (HACC) were originally opposed by the authorities. This was especially the case with regard to the recommendation that the jurisdiction of the HACC should follow that of NABU and SAPO and the fact that the international partners and donors of Ukraine should have a "crucial say" in the appointment of judges to the HACC⁸. Under pressure from its international partners, including the EU, the USA and the IMF - the latter who refused to release its next tranche of 2 billion US\$ of its aid package to Ukraine as long as the law on the Anti-Corruption Courts was not fully in line with Venice Commission recommendations - the Verkhovna Rada adopted, on 7 June 2018, the Law on Anti-Corruption Courts that largely addressed the Venice Commission recommendations. However, the IMF felt that this law fell short of international standards and recommendations. As not all recommendations were fully addressed, further amendments to the law were adopted on 14 July 2018, after which the IMF agreed to release its next aid instalment. As result of the 14 July amendments, inter alia, all already started anti-corruption cases against high level state officials will be moved to the HACC after it has been created, instead of remaining with the normal first instance courts as originally foreseen. In the context of widespread corruption in the judiciary, there was widespread doubt among the Ukrainian population that these cases would lead to any tangible results if not moved to the HACC. The 14 July amendments should therefore be welcomed.

21. In line with the Venice Commission recommendation that the international community should have a crucial say in the appointment process of the judges of the HACC, a six-member Public Council of International Experts (PCIE) was appointed by the High Qualification Commission of Judges (HQCJ). This commission will have a crucial role in the appointment of the judges to the HACC as a majority of both the HQCJ and the PCIE will need to vote for a candidate in order for him or her to be considered for appointment. Thus, each candidate needs at least the support of three members of the PCIE to be appointed. It is important to note the PCIE does not express itself on the ranking of the candidates but in effect only has a veto role in the selection process, in that manner respecting the sovereignty of the HQCJ in the appointment process. In the view of a number of interlocutors this is a vulnerability in the appointment process of judges.

⁷ On 18 September 2018, the Verkhovna Rada increased the number of CEC members to 17 to allow all parliamentary factions to be represented in this body.

⁸ See § 25-27 of the information note by the co-rapporteur on his visit to Kyiv from 19 to 21 March 2018 (As/Mon(2018)06) for detailed information

22. The six members of the PCIE were appointed on 6 November from a group of twelve candidates proposed by the international organisations. Several of the members have been closely involved in the Council of Europe's anti-corruption bodies GRECO and Moneyval. The competition for the judges for the HACC was launched in August 2018. In total 342 candidates applied for the 39 positions in the HACC. The written tests were scheduled to take place in November and the interviews in December 2018. It is therefore hoped that the HACC will be in place in May 2019.

23. There is some controversy with regard to the exact powers of the PCIE. We were informed that it is not yet clear if the PCEI will have access to all relevant personal data and government registers for the candidates for positions at the HACC as well as access to the results of the qualification exams organised by the HQCJ. This is an issue that needs to be clarified promptly, as full access of the members of the PCIE to all relevant information regarding the candidates is essential to ensure the quality and integrity of the process. An additional complication is that, according to HQCJ methodology, reportedly only 210 of the 1000 examination points are attributed on the basis of practical testing of the legal knowledge of the candidates, while the HQCJ has broad discretion in attributing the other 790 points for which there are no clear legal guidelines.

24. The relationship between the other three key institutions that were set up to fight high level corruption in Ukraine: SAPO, NABU and the NAPC, remains acrimonious and contentious. Regrettably, the concerns expressed in the last information note regarding these organisations and the relations between them remain valid and little progress has been achieved in that regard. However, many interlocutors, including the Heads of these organisations themselves, noted that while the institutional relations may at times be acrimonious, on the level of the individual prosecutors and investigators the relations are normal between NABU and SAPO.

25. The Special Anti-Corruption Prosecutor has complained that, in his view, NABU investigators do not always conduct their investigations diligently, as a result of which SAPO is forced to drop the cases. For its part NABU, which is well regarded and supported by the international community and civil society, has complained that SAPO is sabotaging its work and alleges that many cases are dropped for political reasons. Reportedly there are several on-going attempts by different political forces, including inside the administration, to replace the current head of NABU, which is widely regarded as independent and capable. The Ukrainian Prosecutor General Yuriy Lutsenko has opened a case against the Head of NABU for allegedly divulging state secrets in the course of an anti-corruption investigation. However, the grounds for these charges are questioned by others who argue that the information in question was correctly declassified before it was divulged. At the same time there has been criticism on the functioning of the SAPO when, in April 2018, the NABU released audio recordings in which the Special Prosecutor is heard obstructing corruption investigations. The SAPO has confirmed the veracity of the recordings but say the information is taken out of context. The Special Prosecutor was reprimanded for this obstruction by the HCJ but not removed from his position. In a controversial move, the SAPO closed a case against the son of powerful Interior Minister Avakov, reportedly against overwhelming evidence to the contrary.

26. It is clear that the difficult relations and rivalry between NABU And SAPO are hampering the effectiveness of the fight against corruption and need to be resolved promptly.

27. One issue that was mentioned from several sides was the fact that NABU is dependent on the technical capabilities of the SBU to execute wiretaps that are sanctioned by the court. Allegedly, a number of investigations were compromised as a result of this arrangement and NABU has proposed changes to the legislation that would allow it the technical means to conduct wiretaps and electronic eavesdropping on its own after obtaining judicial approval. We were informed that also the SBU is favouring NABU to obtain the technical capability to conduct its own wiretaps.

28. There have recently been some welcome developments with regard to the implementation of the automatic declaration verification system by NACP, which is responsible for the implementation of the law on Prevention of Corruption (LPC) that established, inter alia, an electronic asset declaration system for public officials, the so-called e-declaration system. Each year the NACP receives over 1 million asset declarations but lacks the proper resources and infra-structure to audit these declarations. In order to aid the NACP in its work, an automatic declaration verification system has been developed but its implementation was delayed. It should be noted that the automatic verification of asset declarations is one of the countries' international obligations in the framework of the visa liberalisation regime with the EU.

29. On 25 September 2018, in a welcome development, the NAPC finally launched its automatic assets declaration verification system. This system uses mathematical formulas to calculate the risk of each declaration. If the risk factor of a declaration is high the full declaration will be audited by the NAPC. If risk factor is evaluated by the system as low only potential risks identified by the system will be audited. Reportedly

over 250.000 declarations now need to be fully audited. Given the human resources available to the NAPC it will be impossible to do so manually. The second phase of the electronic audit system that would automate to a large extent the auditing of the declarations concerned is not yet functioning, as the technical and legal prerequisites that would give the NAPC access to the relevant government databases needed to audit the deflations are not yet in place. The long delay in the establishment of the electronic verification and audit system for e-declarations has led to questions being raised about the political will of the NAPC to ensure an efficient and effective functioning of the e-declaration system.

30. On 27 November 2018 the State Bureau for Investigation (SBI) started to function. For a large part the SBI takes over the investigation functions of the Prosecutor General's Office as existing under the previous legislation. The SBI is, *inter alia*, responsible for the investigation of crimes committed by high level state officials and law enforcement officials. Given the potential for overlap between the work of the NABU and SBU we expressed our hope that these two institutions will work cordially together and avoid accidental interference in each other's investigations.

31. In the side lines of our discussions on the establishment of the HACC we were informed that the second round of selection of judges for the Supreme Court had been started. In total 659 persons have applied for 78 vacant positions. The selection process is conducted by the High Qualification Commission of Judges (HQCJ) with the assistance of the Public Integrity Council (PIC), which is legally allowed to advise the HQCJ on each candidate. However, reportedly, during the first round of appointments of judges to the new Supreme Court, the advice given by PIC was often ignored. We were also informed that there is a considerable shortage of judges to fill the current vacancies in the judiciary. This is reportedly also the result of the lengthy vetting and lustration processes to which (candidate) judges are subjected. Reportedly the shortage of candidates is such that it is affecting the efficient administration of justice. We therefore encourage the relevant authorities to use all available mechanisms, and without compromising the integrity of the justice system, to promptly fill the current vacancies in the judiciary.

5. Miscellaneous Observations

32. The provisions regarding education in minority languages in the Ukrainian Law on Education, continue to raise concerns among some of the minorities in Ukraine and remains an issue of contention between Ukraine and some of its neighbours. While we did not discuss the issue of education in minority languages in detail during our visit, we encourage the authorities to fully implement the recommendations of the Venice Commission contained in its opinion on the Law on Education. In our view the implementation of these recommendations would alleviate public concerns about the provisions in this law and strengthen the cohesion between the different ethnic and linguistic communities in the Ukrainian Society.

33. On 25 November 2018, Russian Naval vessels captured with the use of force two Ukrainian Navy gunboats and a navy tugboat that attempted to pass through the Kerch strait into the Sea of Azov on their way to the Ukrainian port city of Mariupol. This overt act of Russian military aggression is in clear violation of international law, including the 2003 agreement between the Russian Federation and Ukraine on the use of the Sea of Azov and the Kerch Strait and it escalated the tensions in the region. We therefore strongly condemned the Russian aggression against Ukraine and called upon all parties to refrain from actions that could further escalate the tensions in the region. In addition, we reaffirmed our strong support for Ukraine's sovereignty and territorial integrity, which includes the freedom to navigate freely and unhindered in its own territorial waters, and also expressed our concern about the implementation of Council of Europe human rights standards in illegally-annexed Crimea, as well as in the areas of eastern Ukraine which are affected by the Russian Federation's ongoing military aggression.

34. Following the aggression in the Sea of Azov the Ukrainian authorities declared martial law in certain parts of the country for 30 days. The authorities have made it clear that this will not affect the organization of the Presidential elections on 31 March 2019.

APPENDIX 1

Programme of the fact-finding visit to Kyiv (19-21 November 2018)

Co-rapporteurs: Ms Dzhema Grozdanova, Bulgaria, Group of the European People's Party and
Mr Alfred Heer, Switzerland, Alliance for Liberals and Democrats for Europe

Secretariat: Mr Bas Klein, Deputy Head of Secretariat, Monitoring Committee

Main focus of the visit:

- Recent political developments, state of reforms
- Preparation for the 2019 parliamentary and presidential elections
- Fight against corruption, including implementation of the Law on the Anti-Corruption Court

Sunday, 18 November 2018

Arrival at the Kyiv, Boryspil airport, transfer to hotel

Monday, 19 November 2018

09:30	Briefing by the Deputy Head of the Council of Europe Office in Ukraine (*)
10:30	Roundtable on the state of Constitutional reform (*)
11:30	Roundtable on the fight against corruption (*)
12:30	Roundtable on the Media environment (*)
13:00	Lunch
14:30	NGO Round table 2019 presidential and parliamentary elections and the political environment (*)
16:00	Meeting with the Deputy Minister of Foreign Affairs
17:15	Meeting with the Deputy Minister of Justice

Tuesday, 20 November 2018

10:00	Meeting with the European Union Advisory Mission (EUAM)
11:20	Meeting with Ukrainian Parliament Commissioner for Human Rights (Ombudsperson)
12:30	Meeting with the President and members of Central Election Commission
13:30	Lunch
14:30	Meeting with the Speaker of the Parliament
15:20	Meeting with the Chairman and members of the Ukrainian Delegation to PACE
16:45	Meeting with the Specialised Anti-Corruption Prosecutor (SAPO)

- 18:00 Meeting with the leadership of the faction of the political party "Batkivshchyna"
- 19:00 Dinner with the Diplomatic Community hosted by the Swiss Ambassador to Ukraine

Wednesday, 21 November 2018

- 09:15 Meeting with the Head of the National Anti-Corruption Bureau (NABU)
- 10:30 Meeting with the High Council of Justice
- 12:00 Meeting with the Head of the National Agency for the Prevention of Corruption (NAPC)
- 13:00 Lunch
- 14:30 Meeting with the First Deputy Chairperson of Anti-Corruption Committee
- Meetings with leadership of all parliamentary factions in the Verkhovna Rada:
- 15:00 Faction of the political party "Petro Poroshenko Bloc"
- 15:30 Faction of the political party "People's Front"
- 16:00 Faction of the political party "Opposition Bloc"
- 16:30 Faction of the Political party "Samopomich Union"
- 17:00 Faction of Oleh Liashko Radical Party
- 17:30 Group "People's Will"
- 18:00 Group "Party Revival"

Thursday, 22 November 2018

Departure of the delegation

(*) organised by the Council of Europe office in Kyiv

APPENDIX 2

STATEMENT

Ukraine monitors call for swift creation of the High Anti-Corruption Court

28/11/2018

Following recent events in the Sea of Azov, the co-rapporteurs for the monitoring of Ukraine by the Parliamentary Assembly of the Council of Europe (PACE), Dzhema Grozdanova (Bulgaria, EPP/CD) and Alfred Heer (Switzerland, ALDE), have reiterated their strong support for Ukraine's sovereignty and territorial integrity, which includes the freedom to navigate freely and unhindered in its own territorial waters. They called on all sides to refrain from any actions that could further escalate tension. They also took note of the declaration of a state of emergency in certain parts of Ukraine's territory, the implementation and effects of which they will closely follow. The rapporteurs also expressed their concern about the implementation of Council of Europe human rights standards in illegally-annexed Crimea, as well as in the areas of eastern Ukraine which are affected by the Russian Federation's ongoing military aggression.

Speaking after a recent visit to Kyiv (19 to 21 November 2018), the rapporteurs also called on the Ukrainian authorities to swiftly establish the High Anti-Corruption Court, following the adoption of the required legislation on 7 and 14 July 2018. "We welcome the adoption of the legislation on the High Anti-Corruption Court in line with the recommendations of the Venice Commission. This is a very positive development. It is now important that this court is established and starts work without any further delay. The selection process of the judges of this court has been started. The role of the Public Council of International Experts in this selection process is essential to ensure public trust in the effectiveness of the Court. It is important that the Public Council is provided with all the access and information it needs to do its work properly and promptly," said the co-rapporteurs.

They also welcomed the initiation of the first phase of the electronic verification system for so-called "e-declarations", which partially addresses some of the serious concerns expressed in this regard following the previous visit of the co-rapporteurs. "It is now important that the second phase of the electronic verification system, which will allow the cross-checking of the e-declarations with other government registers and databases, is implemented without further delay. Without it, any verification process will be mostly ineffective given the sheer number of declarations that are filed and in need of verification," said the co-rapporteurs.

Still on the topic of Ukraine's efforts to combat corruption, the co-rapporteurs expressed their serious concern at the fact that tensions between the main bodies set up to fight endemic corruption in the country had not subsided or been resolved. In the co-rapporteurs' view, tensions between the leaderships of NABU, SAPO and the NACCP, which sometimes turns to open hostility and even the sabotaging of each other's work, is undermining the effectiveness of the fight against corruption and should be resolved at once. They called upon the authorities and all other stakeholders to show the commensurate political will to allow these institutions to work as intended and to fight the menace of corruption in the country. "Corruption cannot be tackled by legislation alone, this needs also a change of behaviour and a genuine political will to implement the adopted legislation," the co-rapporteurs underlined.

In the context of their discussions on the on-going reform of the judiciary, the rapporteurs took note of the large number of vacancies for first-instance judge positions, also as a result of the on-going vetting process for judges. While fully understanding the importance of this re-evaluation of members of the judiciary, the rapporteurs expressed their hope that the vacancies would soon be filled in order to minimise the impact on the efficient administration of justice.

The rapporteurs strongly condemned and expressed their concerns about the increase in attacks on civil society activists and journalists that are active in the field of the fight against corruption. "The tragic death of Kateryna Handziuk following an acid attack in July this year was maybe the most shocking and visible incident, but we learned that this was far from being the only attack on anti-corruption activists," said the co-rapporteurs. "These attacks on civil society activists and journalists, and the lack of results from the investigations into these crimes, is unacceptable. There cannot be any impunity for such acts and we urge the authorities to promptly, fully and transparently investigate all attacks on anti-corruption activists and journalists," added the rapporteurs.

They also urged the Ukrainian authorities to implement the recommendations contained in the Venice Commission opinion on the Ukrainian Education Law, adopted on 5 September 2017, with regard to use of the state language and minority languages in education. In their view this would address public concern about the law and strengthen cohesion between the different ethnic and linguistic communities in Ukrainian society.

During the visit the two co-rapporteurs also discussed the organisation of the forthcoming presidential and parliamentary elections in Ukraine which are scheduled for 2019. They expressed their hope that all political forces would work towards an inclusive and genuinely democratic election process that would have the trust of all stakeholders. For that reason, they also urged all parliamentary factions represented in the Central Election Commission to propose their candidates and participate in its work in good faith. Given that it was unlikely the Unified Election Code currently under consideration in the Verkhovna Rada would be adopted in time to be implemented before the next presidential elections, the co-rapporteurs called on the Verkhovna Rada to promptly adopt the necessary technical legal acts proposed by the Central Election Commission, to address shortcomings in the current legislation. This is especially important for those provisions that will allow IDPs to participate fully in the forthcoming Presidential and parliamentary elections.