

COUNCIL OF THE EUROPEAN UNION



Council conclusions on Ukraine

3209th FOREIGN AFFAIRS Council meeting Brussels, 10 December 2012

The Council adopted the following conclusions:

- "1. The Council reaffirms the EU's engagement with Ukraine, in the context of the Eastern Partnership, towards political association and economic integration based on the respect for common values, acknowledging the European aspirations of Ukraine and welcoming its European choice. The Council recalls the outcome of its debate in May 2012, stating that Ukraine's performance will determine the pace of engagement, and will be assessed on the basis of progress in three areas: the compliance of the 2012 parliamentary elections' with international standards and follow-up actions, as well as Ukraine's progress in addressing the issue of selective justice and preventing its recurrence, and in implementing the reforms defined in the jointly agreed Association Agenda.
- 2. The Council notes with concern that the conduct of the 28 October parliamentary elections presented a mixed picture with several shortcomings and constituted a deterioration in several areas compared to standards previously achieved. Looking forward to the final report by the OSCE-ODIHR, the Council underlines the importance of fully implementing its recommendations and of addressing the observed shortcomings. The Council also expects the Government of Ukraine to implement in an inclusive dialogue with the opposition the public commitments made by the Prime Minister of Ukraine, including early steps to establish a reliable electoral system based on an Election Code and clear rules for balanced media access for electoral competitors. The Council will pay close attention to how the inconclusive results in the five single mandate electoral constituencies will be addressed.

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- 3. The Council reiterates its strong concern regarding the politically motivated convictions of members of the former Government after trials which did not respect international standards as regards fair, transparent and independent legal process and regrets that, as a consequence, opposition leaders were prevented from standing in the parliamentary elections. The Council commends the efforts undertaken by the European Parliament's monitoring mission to Ukraine headed by former Presidents Cox and Kwaśniewski. The Council expects the authorities to address the cases of politically motivated convictions without delay as well as to take further steps to reform the judiciary to prevent any recurrence. In this context, the Council stresses the importance of a clearly expressed commitment by the Ukrainian authorities to an early implementation of all judgments of the European Court of Human Rights as well as the recommendations by the Council of Europe related to detention conditions and medical assistance to persons in detention.
- 4. Welcoming the entry into force of a new Criminal Procedure Code, the new legislation on the Bar, as well as the establishment of a National Preventive Mechanism against torture, the Council stresses the importance of their effective implementation. In the spirit of Ukraine's commitments within the Association Agenda, the Council expects Ukraine to take additional steps on judicial reform, including through a comprehensive review in close consultation with the Council of Europe/Venice Commission of the law on the functioning of the Prosecutor's Office, of the Criminal Code, of the role of the High Council of Justice, of the laws on the Judicial System and the Status of Judges as well as a reform of the Police. The Council welcomes the European Union's and Ukraine's intention to launch an informal dialogue with Ukraine on judicial reform to facilitate Ukraine's progress on these matters.
- 5. The Council recalls the importance of the jointly agreed Association Agenda in preparing for a possible future entry into force of the Association Agreement and its Deep and Comprehensive Free Trade Area. Electoral, judiciary and constitutional reforms in line with international standards are integral parts of it and commonly agreed priorities. The Council looks forward to necessary reforms to prepare for establishing a Deep and Comprehensive Free Trade Area. Sustained efforts are also required to take forward the fight against corruption and public finance management reform, including the broadening of the remit of the Accounting Chamber. The Council calls upon Ukraine to take determined action to improve the deteriorating business and investment climate, and in this context welcomes the European Union's and Ukraine's intention to launch an informal dialogue with Ukraine on business climate. The Council also stresses the importance of inclusive reforms through constructive engagement between Government, parliamentary opposition and civil society.
- 6. The Council invites the High Representative together with the Commission to monitor and keep the Council informed about progress achieved, including in the preparations of the upcoming EU-Ukraine Summit, the 2013 EU-Ukraine Cooperation Council and the November 2013 Eastern Partnership Summit in Vilnius. The Council reaffirms its commitment to the signing of the already initialled Association Agreement, including a Deep and Comprehensive Free Trade Area, as soon as the Ukrainian authorities demonstrate determined action and tangible progress in the three areas mentioned above, possibly by the time of the Eastern Partnership Summit in Vilnius in November 2013. The signature could be accompanied by opening for provisional application of parts of the Agreement.

- 7. In the spirit of establishing a Deep and Comprehensive Free Trade Area, the European Union expects Ukraine to refrain from introducing protectionist measures, such as recycling fees on vehicles, which are potentially in breach of its WTO commitments. The European Union reiterates its request to Ukraine to withdraw the notification for renegotiations of its WTO commitments under Article XXVIII of the GATT as this initiative raises commercial concerns and poses a challenge to the integrity of the multilateral trading system.
- 8. The Council reconfirms its support to the process of modernisation of Ukraine and to the EU's continued work with Ukraine to this end, including through bilateral financial assistance and potential EU Macro-Financial Assistance and the facilitation of support from International Financial Institutions for the modernisation of the Ukrainian Gas Transmission System, in accordance with existing agreements, including the Energy Community Treaty.
- 9. The Council furthermore re-affirms its commitment to the shared objective of visa-free travel in due course provided that conditions for well-managed and secure mobility set out in the Action Plan on Visa Liberalization are in place and encourages Ukraine to increase efforts towards fulfilment of its first phase benchmarks. It looks forward to the early conclusion of the amended Visa Facilitation Agreement.
- 10. The EU looks forward to close cooperation and continued political dialogue with Ukraine at all levels, including as a future Chair-in-Office of the OSCE. It expects Ukraine to uphold and promote all existing OSCE commitments, provide leadership in implementing the decisions taken at the Dublin Ministerial, as well as to step up efforts of the OSCE to resolve conflicts."