



## **Transport component of the Association Agreement: implementation and perspective**

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Progress report on the implementation of Chapter 7 of the Association Agreement between the European Union and its Member States, on one part, and Ukraine, on the other part.

### **European Union objectives**

When it comes to its transport policy, the European Union (EU) has four key objectives. It strives to ensure that the movement of people and goods is smooth, efficient, safe, and free. It does this by pursuing the creation of integrated networks encompassing all modes of transport. The Trans-European Transport Network (TEN-T) policy is an example of this. It is based on Regulation (EU) No 1315/2013 and addresses the implementation and development of a Europe-wide network of railway lines, roads, inland waterways, maritime shipping routes, ports, airports and railroad terminals.

EU transport is currently governed by Title V of the Treaty on the Functioning of the EU. Meanwhile, future policy will mainly be grounded on a 2011 White Paper, comprised of 40 initiatives designed to implement sustainable and innovative means of transport that would meet the EU's key energy and climate objectives. These objectives include generating economic growth, reducing dependence on imported oil, introducing jobs and cutting the transport sector's emissions by 60 percent by 2050 compared with 1990 levels.

Many of these EU objectives are reflected in the transport section of the Association Agreement. There are three key aspects of the Agreement that should be highlighted. Firstly, the EU and Ukraine are expected to cooperate in developing sustainable transport systems. Secondly, the parties will endeavour to enhance the main transport links between their territories. And finally, the EU is expected to support Ukraine in promoting efficient, safe, secure and multimodal transport operations.

### **General**

There is no doubt that the ongoing reforms of the Ukrainian transport sector deserve special attention. Ukraine has seen limited success in progressing with regard to Chapter 7 of the Association Agreement. In spite of numerous initiatives, the results of implementing the transport section of the Association Agreement remain modest as Ukraine's transport industry continues to suffer from a lack

of openness and competitiveness. Crucial laws on road, railway and inland waterways, which are essential in harmonising Ukrainian transport legislation with that of the EU, have not been approved.

When it comes to implementing complex transport infrastructure projects, Ukraine continues to face three key challenges. The first concerns finding funding for infrastructure without relying on external financial support. It is paramount that Ukraine decentralizes its transport sector and develops funding strategies in cooperation with the private sector. The second involves Ukraine's normative technical documents relating to the construction and the functioning of transport infrastructure. Many of these documents will need to be updated to match European technical norms. It is crucial that Ukraine seeks and receives assistance from the EU in updating them. The third challenge is defined by drawbacks in land regulation. Newly-approved Ukrainian infrastructure projects are often stopped in their tracks as a result of insufficient land and ineffective instruments for withdrawing it. Ukraine must follow the EU's best practices and implement a simplified legislative mechanism for the withdrawal, concession and registration of necessary land for the development of national transport infrastructure projects.

### **Transport system intermodality and interoperability**

Ukraine's limited success in implementing reforms in modernizing and developing its transport infrastructure may create obstacles for accommodating its increasing GDP growth, which according to a forecast by the International Monetary Fund is projected at 3 percent in 2019. The optimisation of transport expenses is a prerequisite for Ukraine's continuous economic growth due to two factors. First, the transport sector is a major component of the Ukrainian economy and accounted to 6.7 percent of the country's GDP in 2016. And second, the attractiveness of other major Ukrainian industries such as agriculture and manufacturing is directly linked to the competitiveness of the transport industry. It is therefore essential that Ukraine pursues opportunities for decreasing the transport component in the price of its goods and services.

This can only be achieved by developing transport system intermodality. For that, Ukraine will require both strong political will and substantial support from its EU partners. Fortunately, there are currently grounds for both. The promotion of transport system intermodality and interoperability was highlighted as one of several key areas for EU-Ukrainian cooperation in the Association Agreement, whereas in November 2019 the Ukrainian Government approved a draft law on Multimodal Transportation. The bill envisages the approximation of Ukraine's transport legislation to the Agreement on the Development of Multimodal Transport Corridor Europe-Caucasus-Asia (TRACECA) by means of granting eligible freight carriers the right to transit goods via multiple modes of transport under a single contract. Aside from TRACECA, it is crucial that Ukraine achieves measurable results in implementing the EU's Trans-European Transport Network (TEN-T) policy. This involves ensuring that Ukrainian railway lines, roads, inland waterways, maritime shipping routes, ports, airports and railroad terminals are developed as part of one interconnected system, rather than separately. Some progress has already been made. In 2017, Ukraine signed an agreement to extend the indicative maps of the TEN-T, the Mediterranean and the Rhine-Danube corridors, to its territory. In addition, 39 Ukrainian infrastructure projects were included in the Indicative TEN-T Investment Action Plan prepared by the European Commission and the World Bank. The plan envisages financial support of some €4.5 billion for Ukraine's transport infrastructure in the period until 2030.

### **Policy**

Multiple attempts have been made by the Ukrainian Ministry of Infrastructure to create a sustainable national transport policy. In 2016 the Ministry prepared and submitted to the country's parliament four key draft law proposals. These drafts include the Law on Harmonization of Ukrainian Legislation in the Field of Road Transport with the EU Legislation, the Law on Railway Transport, the Law on Inland Waterway Transport and the Law on Amendments to Some Legislative Acts to Harmonise them with the EU Legislation in the Field of Transport of Dangerous Goods. It is alarming that neither of the four aforementioned laws have yet been approved. This has sent a clear signal about a concerning lack of political support for the policy reforms.

It is essential to monitor whether the new Government will choose to restart or continue the modern transport sector policy development process. Restarting the process would result in the dismissal of multiple draft law proposals submitted to the Ukrainian parliament as well as 56 Activity Implementation Indicators within the EU Legislation Framework Implementation Plans that have currently been assigned an ongoing status by the Ukrainian Ministry of Infrastructure. A new Cabinet of Ministers was formed after Ukrainian parliament deputies were inaugurated on 29 August 2019. It is important to note that the new Government has committed to giving special attention to developing Ukraine's transport sector. Such factors have set the bar high for potential policy reforms, which appear to currently enjoy high levels of political support.

The approval of the National Transport Strategy of Ukraine 2030 in May 2018 can only be commended, but it remains to be of utmost significance for the Government to take the next step and approve an action plan for the implementation of the Strategy. Concerns can be expressed regarding major changes in the Ukrainian political leadership following the 2019 presidential and parliamentary elections as this may heavily extend the necessary timeframe for the adoption of such a plan.

## **Railways**

The Association Agreement highlights the need for Ukraine to modernize its transport sector and it can be noted that some progress has been made with regard to Ukrainian railways. Ukraine has introduced automated control systems and passenger rail transport has been equipped with automated self-service systems. Ordering travel documents online has been made possible in the industry. Furthermore, the European Investment Bank made a significant contribution to enhancing Ukraine's rail infrastructure by approving the €55 million Beskyd Railway Tunnel project in 2014 and the €150 million Ukraine Railway Modernization project in 2016. The Beskyd railway tunnel, which was jointly financed with the help of the European Bank for Reconstruction and Development (EBRD) is a prime example of successful cooperation between Ukraine and its European partners. The rail capacity of the reconstructed tunnel has been quadrupled from 12 trains per day to 46. And some 60 percent of rail traffic between the EU and Ukraine is expected to go through it.

With regard to policy, timely and efficient reforms in Ukraine's railway sector are essential in light of the country's commitment to harmonising its railway legislation as well as operational and administrative practices with EU directives and regulations by 31 October 2022. It is alarming that the draft Law on Railway Transport of Ukraine remains to be approved. The Law, among other aims, is intended to align Ukraine with commitments of the Association Agreement. The Agreement commits the parties to cooperate and seek to harmonize policy, legislation and regulation across Ukraine's railway sector. The market opening provisions of the new Law envisage arrangements allowing properly licensed cargo train operating companies, whether public or private, to provide transport

services on Ukraine's rail network on a competitively neutral basis. Joint-stock company Ukrzaliznytsia has already begun a wide-ranging reform program with its development strategy for 2019-2023 that includes its vision and values, market analysis, objectives, reorganization into business segments and a plan for action.

Given the key role that railways play in Ukraine's overall economic development through its critical impact on freight and passenger movement, the timely adoption of the law on Railway Transport is crucial. To succeed, Ukraine should continue to pursue the liberalization of the railway market and the introduction of a transparent and efficient tariff model in line with the EU acquis. In addition, Ukraine should pursue the development and enhancement of its railway sector through the improvement of infrastructure and its interconnectivity with the TEN-T.

## **Aviation**

The National Transport Strategy of Ukraine 2030 notes that Ukraine will seek to liberalize its aviation market in accordance with both the provisions of the Association Agreement and the Common Aviation Area Agreement. Some progress has been made as new Aviation Rules on civil aviation aircrew entered into force on 1 January 2018 and Aviation Rules on aerodrome certification were adopted in December 2017, both based on EU legislation. However, the Common Aviation Area Agreement between the EU and Ukraine still awaits its signature.

## **Roads**

With regard to roads, the Association Agreement highlighted the need to improve transport system safety and enhance European transport links. To achieve this, Ukraine has joined Go Highway and Via Carpatia, two international projects under the TEN-T framework. The Go Highway project envisages connecting the ports of the Black sea and the Baltic Sea. This project involves large-scale repair of road infrastructure and the creation of an international transport corridor linking Ukraine's western border through the country's central regions to Odessa and Mykolaiv ports. The project is to be completed in 2020.

Projects such as Go Highway also help facilitate the growing flow of passengers between EU countries and Ukraine. Passenger movement between Poland and Ukraine is particularly important. This is due to the fact that according to data of the Polish Central Bank, some 1.2 million Ukrainian citizens worked legally in Poland in 2016 and some 1.7 million work permits were issued to Ukrainian citizens in 2017.

With regard to road safety, official Ukrainian statistics reveal that some 26,700 people died in road traffic accidents in Ukraine in the 2011-2016 period, whereas 33,600 people were injured on Ukrainian roads in 2016 alone. World Bank estimates have shown that such accidents amount to an annual monetary loss of up to €4.5 billion for the country. In response to the critical situation, the National Strategy on the improvement of road-traffic safety in Ukraine for the period until 2020 was passed into law in 2017, but many Ukrainian regions failed to develop actions plans to facilitate its implementation. Furthermore, a road safety component has been added to the State Road Fund, which was launched in 2018. The 500-500-1000 Program was also launched in 2018 and aims to improve traffic safety by constructing 500 ring roads, 500 refuge islands, and 1000 pedestrian crossings.

Non state actors have joined the fight against road deaths in Ukraine. In July 2018 the European Investment Bank with support of the Neighbourhood Investment Facility launched a €75 million Urban Road Safety project with a goal to improve safety on the roads of Ukraine's five major cities as well as encourage a shift to a more environmentally friendly public transport system. Local and regional NGOs such as the Road Safety Support Foundation and the Eastern Alliance for Safe and Sustainable Transport have launched campaigns aimed at reducing road deaths in the country. Nevertheless, achieving measurable results will require Ukraine to ensure that envisaged road safety goals are being pursued on the regional level as well as establish a system to monitor progress and assess effectiveness of specific activities or policies.

### **Inland waterway and maritime sectors**

Ukraine is a seafaring nation and the efficient exploitation of its inland waterways and seaports is essential to the country's ongoing economic development. To succeed, Ukraine will be required to complete the process of ongoing policy reform, introduce openness, foster public-private partnerships to become more competitive and improve its infrastructure.

Ukraine has made continuous efforts to reform its inland waterway and maritime sectors, but four major drawbacks remain. First, the regulatory framework is far from perfect. The draft Law on Inland Waterway Transport is still awaiting approval and the Strategy for the Development of Seaports of Ukraine until 2038 that was updated by the Ukrainian Sea Ports Authority in 2018 is currently under review in the Ukrainian Government. Second, the 20 percent decrease in Ukrainian port charges in January 2018 has only marginally improved the competitiveness of Ukrainian ports in comparison to the ports of rivaling Black Sea countries offering more attractive pricing. Third, much of the port infrastructure as well as the fleet is obsolete and is in immediate need of modernization and renewal in accordance to the Association Agreement. Fourth, it remains of prime importance for Ukraine to shed the shortcomings in measures and resources to address maritime safety and environmental protection that have been discovered during Ukraine's audit by the International Maritime Organisation in June 2018.

Attention must be drawn to Ukraine's efforts to reform the sectors. First and foremost, the Ukrainian leadership has managed to settle on a joint position on launching concession tenders for the Kherson and the Olvia seaports. These pilot concession tenders that have been prepared jointly with EBRD experts are expected to be launched by January 2020 and will serve as a key stepping stone in implementing the Association Agreement's requirement for Ukraine to develop transport funding strategies in cooperation with the private sector. It is also worth noting that both foreign and Ukrainian entities will be invited to participate in these tenders. This is not the first time that Ukraine seeks external private investors. A Memorandum of Understanding to develop port infrastructure in Mariupol was signed in October 2019 between Ukraine and a large Chinese conglomerate, which pledged to invest over €45 million in the development of the port.

Several other key achievements, include the creation of the Maritime Administration of Ukraine that began functioning in August 2018 as well as the implementation in 2018 of the Ukrainian National Maritime Single Window, which can already be tested at the port of Odessa. Furthermore, Ukraine introduced amendments to its Customs Code in March 2018 to simplify customs procedures, whereas

the Ukrainian Ministry of Infrastructure has prepared a project draft of the Sustainable Logistics Strategy 2030 and Action Plan for Ukraine.

### **Transport system sustainability**

Expanding transport system sustainability was highlighted among the key goals that Ukraine should pursue to comply with the provisions of the Association Agreement. This will undoubtedly be a difficult task as there appear to be problems on multiple fronts. As it has been recognized in Ukraine's National Transport Strategy, the country is currently suffering from poor environmental control, failure to recycle automotive parts and road vehicle pollution. There is also a severe lack of population awareness of environmental protection measures as well as a complete absence of responsibility for engaging in environmentally harmful activities. Meanwhile, the majority of Ukrainian cities could benefit from vehicle noise reduction strategies, additional pedestrian zones and an increase in bicycle lanes.

To demonstrate its commitment to developing environmentally sustainable transport, Ukraine has crafted a set of ambitious goals in its National Transport Strategy. These include the reduction of greenhouse gas emission by 60 percent and carbon monoxide emission by 70 percent, compared to 1990 and 2015, respectively. The Strategy proposes to achieve this through the proliferation of public transport, electric vehicles, human-powered modes of transport and alternative fuels. There is no doubt that the country will have to begin the pursuit of these goals by preparing and approving an Action plan for the Reduction of Environmental Impact of Transport.

With regard to cities, the creation of sustainable development plans is not a new phenomenon. The Ivano-Frankivsk Mobil sustainable transport project took place in 2012-15 and was jointly-funded by the German Federal Ministry for Economic Cooperation and Development. During the project, a working group was established that was tasked with developing a bicycle strategy, conducting a survey on mobility patterns and preparing an urban mobility plan. Further efforts to create sustainable transport systems across Ukrainian cities could be facilitated by adopting Sustainable Urban Mobility Plans (SUMP). Five cities are already expected to develop SUMPs. In September 2019 Zhytomyr became the first city to adopt such a plan. It outlined a number of priorities such as promoting cycling, strengthening the role of public transport and encouraging people to walk. The Zhytomyr Sustainable Urban Mobility plan was developed as part of the Integrated Urban Development in Ukraine project commissioned by the German Federal Ministry for Economic Cooperation and Development.

The final point to consider is the growing number of electric vehicles. As many as 4800 electric vehicles were registered in Ukraine in 2019 alone, which constitutes a 50 percent growth compared to 2018. There are currently some 15,500 electric cars in the country, but this remains a far stretch from the ambitious goals that have been set in Ukraine's Transport Strategy. Major problems persist regarding the accessibility and quality of charging stations across Ukraine, with only 1374 stations available of which only 14 percent are equipped for fast charging. Policy incentives must also be implemented. The Law of Ukraine No. 2754-VIII is expected to enter into force on 1 January 2020. It envisages distinct licence plates and designated parking lots for electric vehicles.

Despite the rapid growth of the electric car market, its share of Ukraine's total vehicles remains marginal and will remain this way unless major policy reforms are implemented to solve the problem of growing fossil-fuel use. To illustrate the scale of the problem, it must be noted that there are some 9.2 million motor vehicles in Ukraine, of which 6.9 million are cars. The fossil-fuel car market

continues growing with data of the Ukrautoprom association showing that 230,900 used cars and 32,200 new cars were registered across Ukraine in the January-May period alone.