



EASTERN PARTNESHIP  
Civil Society Forum

EU budget support to Eastern Partnership Countries:



MOLDOVA

GEORGIA

UKRAINE

2014 Report on Budget Support Provided  
to Moldova, Georgia and Ukraine



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[www.osf.org.ua](http://www.osf.org.ua)

[info@osf.org.ua](mailto:info@osf.org.ua)

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This evaluation focuses on budget support as an instrument of the EU funding to governments of three Eastern Partnership countries: Georgia, Moldova and Ukraine.

The Evaluation of the EU budget support addresses the following issues:

1. Verification of the actual fulfilment of three major conditions for budget support provision:
  - the presence of sectoral development or existence of reform policy and strategy;
  - stability-oriented macroeconomic framework;
  - a programme to improve public financial management.
2. Evaluation of factors/shortcomings in legal regulation or political climate which can undermine efficient use of the EU budgetary support.
3. Availability of full information on both forms of budget support: general and sectoral, and their reflection in country's state budgets.
4. Availability of information (reports) on results of implementation of particular strategies or use of support funds for other purposes.
5. Proper use of the EU budget support (e.g. for policy/strategy implementation).
6. Policy impact achieved so far.
7. Civil society involvement into formulation and implementation of strategies and policies that receive/will receive the EU budget support.

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# Moldova

Victoria Bucataru  
Foreign Policy Association of Moldova

## EUROPEAN UNION SECTORAL BUDGET SUPPORT TO MOLDOVA

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Through the years the relations between Republic of Moldova and European Union (EU) have been guided by several frameworks having as main goal the development assistance for Moldova, a country which regaining its independence chose European model as its development pattern. It began with the EU – Republic of Moldova Partnership and Cooperation Agreement (PCA) in November 1994 and developed till the signing of the Association Agreement and the Deep and Comprehensive Free Trade Agreement on 27 of June, 2014.

Effective as of 1 July 1998, despite being signed on 28 November 1994, the EU – Republic of Moldova Partnership and Cooperation Agreement (PCA) became the official benchmark for the start-up to the relationship between the EU and the Republic of Moldova. It provided the framework for trade liberalization, legislation harmonization, cooperation in a number of areas, as well as for a political dialogue and financial assistance.

The TACIS Program (Technical Assistance for the Commonwealth of Independent States) was one of the key tools set up by the EU aiming at establishing and building up economic and political relations with Former Soviet Union states. Pursuant to article 78 under the PCA <sup>1</sup>, the EU committed to provide Moldova with finite financial and technical assistance in the form of donations through the TACIS program.

In March 2004, a new concept of the TACIS program was launched,

targeting 2 core objectives: poverty reduction and cooperation with the EU in areas of strategic interest.

The Food Security Program (FSP) is another EU financial assistance tool. This was a program designed to reduce poverty and improve food safety, including by taking measures within agriculture, social reform and management of public funds. FSP was a program that implied budget support contingent on the accomplishment of some commitments set forth before.

The progress achieved in terms of meeting the conditions prescribed in 2002 made it possible to allocate EUR 9.2 million in 2005. The first installment in the amount of EUR 1.2 million for year 2004 was transferred in the fall of 2005, whereas the second installment worth EUR 7.6 million was transferred in December 2005. There was another amount of EUR 10 million transferred through the FSP, too, of which EUR 9.2 million was budget support which was available in 2006 already <sup>2</sup>.

Although the political dialogue with the EU started with the democratic government in power, it continued during the communist ruling (2001-2009). Moreover, the European path as the main foreign policy vector was declared back in 2005 when the first EU-Moldova Action Plan was enforced according to the new EU assistance framework guided by the European Neighborhood Policy Instrument (ENP). The ENP was designed to achieve closer political association and greater degree of economic

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<sup>1</sup> "In order to fulfill the objectives of this Agreement and pursuant to Articles 70, 80 and 81, the Republic of Moldova shall benefit from temporary financial assistance from the Community through technical assistance as donation to speed up its economic reform process", Partnership and Cooperation Agreement between the EU and the Republic of Moldova, <http://www.undp.md/border/RelatileRM-UE.html>

<sup>2</sup> Republic of Moldova, Country Strategy Paper 2007-2013, [http://ec.europa.eu/world/enp/pdf/country/enpi\\_csp\\_moldova\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_csp_moldova_en.pdf)

integration with the eastern neighbors, a goal which *de facto and de jure*, started being implemented in 2009 once the pro-European Coalition Government came to power after mass discontent concerning the 2009 Parliamentary elections.

The new instrument, ENP, made available EUR 209.7 million for 2007-2010, for reform support and for the implementation of the EU – Moldova Action Plan within the framework of the ENP. According to the 2007-2010 National Indicative Programme (NIP) were elaborated the yearly National Action Plans<sup>3</sup>.

According to the 2007 National Action Plan out of the total of EUR 40 million, EUR 20+1 million were allocated for the implementation of the budget support programme in the field of social assistance. The money was disbursed during three years:

- direct budget support
  - ⇒ 2007 – EUR 5 million
  - ⇒ 2008 – EUR 7.5 million
  - ⇒ 2009 – EUR 7.5 million

The National Action Plan for 2008 envisaged a total of EUR 62.3 million. EUR 46.6 million was allocated as direct budget support in the field of health care:

- ⇒ 2009 – EUR 12 million
- ⇒ 2009 – EUR 15 million
- ⇒ 2010 – EUR 15 million

The budget of the 2009 National Action Plan consisted of EUR 52 million out of which EUR 45 million was allocated for the implementation of the budget support programme in the field of water and sewage:

- EUR 2 million – technical assistance
- EUR 37 million – direct budget support
  - ⇒ 2009 – EUR 10 million
  - ⇒ 2010 – EUR 15 million
  - ⇒ 2011 – EUR 15 million

The introduction in 2007 of the EU budget support as the predominant tool of financial assistance deepened the EU relations with the Moldovan Government and established a new cooperation framework based on undertaking reforms and conditionality. The direct budget support as a new tool of development assistance provides a series of advantages first because funding is provided for a broad range of reforms planned by the Government for a given period of time as a whole (general budget support) or in a given sector (sector budget support) and second, because it implements the partnership principle to a greater extent. Priorities of the supported reforms are jointly agreed by the EU and the Moldovan Government. Mainly, the budget support programmes launched in the period 2007-2013 are implemented in the field of social assistance, health, water, rural development, energy and justice sector, visa liberalization and vocational education. Budget support to Moldova is provided only by European Union and World Bank.

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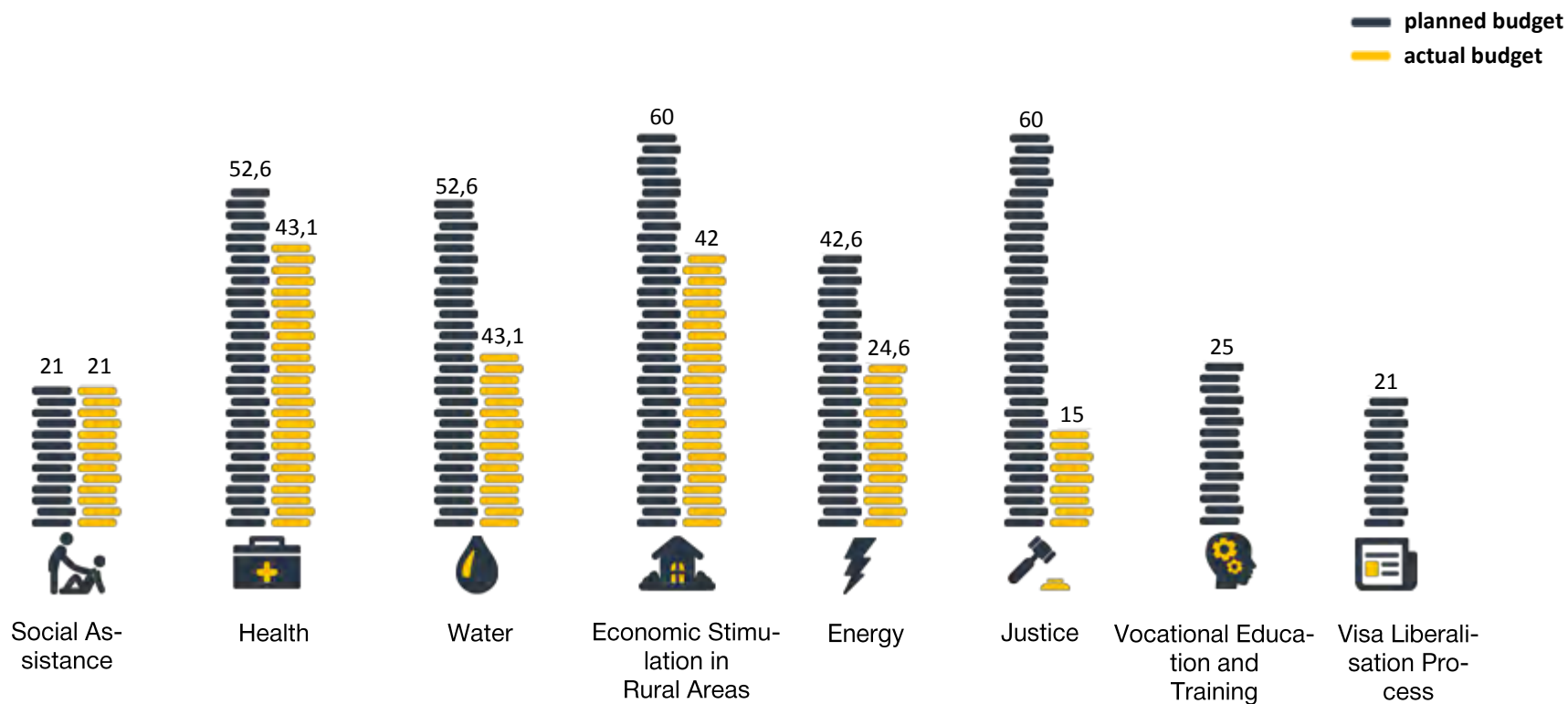
<sup>3</sup> <http://www.mfa.gov.md/proiecte-ue-moldova/>

Budget support operations in Moldova in 2007-2013 <sup>4</sup>

Programme	Year	Planned financial resources, MEUR	Disbursed amount, MEUR*
Social Assistance (finalised)	2007	21	21
Health (ongoing)	2008	52.6 (6 under the more-for-more rule)	43.1 (6 more-for-more rule) to be disbursed
Water (ongoing)	2009	50	27.03
Economic Stimulation in Rural Areas (ongoing)	2010	60 (14 under the more-for-more rule)	42 (14 more-for-more rule) to be disbursed
Energy (ongoing)	2011	42.6	24.61
Justice (ongoing)	2012	60 (8 under the more-for-more rule)	15
Vocational Education and Training (planned)	2013	25	–
Visa Liberalisation Process (planned)	2013	21	–
<b>Total</b>		<b>332.2 (304.2+28 under the more-for-more rule)</b>	<b>172.74</b>

<sup>4</sup> Learning from past experiences: ways to improve EU aid on reforms in the Eastern Partnership, Report of the Polish Institute of International Affairs, Warsaw, April 2014, page 19, [http://www.pism.pl/files/?id\\_plik=17080](http://www.pism.pl/files/?id_plik=17080)

Planned and actual EU budget support to Moldova 2007-2013, MEUR





From 2010, according to the Governmental Decision Nr. 12 dated 19 January, the State Chancellery was named the National Aid Coordination Authority and the institution responsible, at national level, for the coordination of programming, monitoring and evaluation of the external assistance. The EU budget support assistance in 2007-2013 covered the following sectors: social, health, water and sanitation, rural development, energy, justice, Vocational Education Training (VET) and mobility and security - Visa Liberalization. Since 2007, when the EU sector budget support programs started the amount of such projects was estimated at about EUR 298 million in 2012. The budget support programs covered by the 2011-2013 NIP account for 53% of the total amount of EUR 148.6 million including the technical assistance<sup>5</sup>.

When the coalition Government "The Alliance for European Integration" came to power in September 2009, the new government asked from the international donor community support for the implementation of the priority reforms for the country's economic growth laid down in "Rethink Moldova". The Consultative Group Meeting "Moldova Partnership Forum", that took place in Brussels, in March 2010, assured Moldova with assistance amounting EUR 1.84 billion (0.96 billion in grants (52%) and 0.88 billion in loans (48%) for the period of 2011-2013. The EU and the EU member states pledged 40% of the resources committed at the meeting. 70% of the committed funds were disbursed by the end on 2012 for specific sector projects and additional EUR 800 million were received<sup>6</sup>.

The willingness of the new Government to start the reforms in such sectors as justice, anti-corruption, health and social assistance attracted more development assistance, the latest being disbursed according to the negotiated policy matrix and conditionality fulfillment. Due to the strong link between the domestic environment and reform implementation in sensitive area as justice, human rights, anti-corruption - a favorable political dialogue was absolutely recommended.

Therefore, in 2012 the Parliament managed to elect a new President and this was the end of a long period of political and constitutional crises. The reform of the Center for Fighting Economic Crimes and Corruption was initiated, the Law on Equal Opportunities was passed, the Civil Society Development Strategy and its Action Plan (2012-2015) were approved.

In 2013, as a result of a series of conflicts within the ruling coalition, in spite of the constitutional system of check and balances, the state institutions proved vulnerable to the vested interests of a few people thus creating a political stand-off. The political crises not only discredited the democratic institutions, threatened the reform process, but also had a negative impact on the EU-Moldova relations. Nonetheless, the Moldovan authorities continued the negotiations on the EU-Moldova Association Agreement (including its provisions setting up a Deep and Comprehensive Free Trade Area (DCFTA)) which was initiated in November 2013 and signed in June 2014.

Some positive developments were seen in the field of human rights and the justice reform both of them being helped by a solid budget increase, a large programme of the EU technical and financial support. In 2013, Moldova addressed many of the key recommendations contained in last year's ENP progress report. It completed the implementation of the Visa Liberalization Action Plan; took forward judicial and law enforcement reforms; started restructuring the anti-corruption framework; stepped up its implementation of the human rights action plan and the action plan in support of the Roma people; maintained its dialogue with Tiraspol; and continued with challenging regulatory and sectoral reforms.

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<sup>5</sup> Development Cooperation, 2012 Annual Report on external assistance provided to the Republic of Moldova, Chisinau, July 2013, [http://www.ncu.moldova.md/public/files/AE\\_REPORT\\_2012\\_eng.pdf](http://www.ncu.moldova.md/public/files/AE_REPORT_2012_eng.pdf)

<sup>6</sup> Ibidem, page 15

As a result, it benefited in 2013 from an additional assistance allocation of EUR 35 million, in line with the incentive-based approach.

During the period 2011-2013, EU continues to be the biggest development partner of the Republic of Moldova, the annual financial envelope amounting at EUR 135 million (including amounts granted from the Eastern Partnership Integration and Cooperation (EaPIC))<sup>7</sup>.

From the 2013 envelope, more than 50% of the EU development assistance granted for the implementation of the annual EU Action Plans represented the sector budget support programmes, 5 sector programmes have been implemented.

Significant results at sector level have been registered in all five budget support programmes, both in public policy field and capital investment field<sup>8</sup>.

#### **The Economic Stimulation of Rural Areas Programme (ESRA) contributed to:**

- building a business incubator in Ceadar-Lunga town and enhancing the grant fund of National Programme for Economic Empowerment of Youth, Credit Guarantee Fund, PARE 1+1 Programme of the Agency for Interventions and Payments in Agriculture with MDL 150 million, which awarded over one thousand grants;
- support to improve the institutional capacities in the field of business development.

#### **Budget support in health field has contributed to:**

- the procurement of modern equipment for Medical University Simulation Centre of Moldova, as well as to develop/approve the Curriculum and academic programmes for subjects taught at this Centre;

- state-of-art public health laboratories have been created at local level and throughout the Republic and equipment was procured, in accordance with the recommendations of the World Health Organisation.

#### **With the assistance of budget support programme in the field of water and sewage:**

- about 35 thousand people were connected to water pipelines;
- over 20 thousands to sewage systems and the sewage systems were rehabilitated in 14 schools;
- Water Supply and Sanitation Strategy for 2014-2018 has been developed. The Strategy was approved and published at the beginning of 2014.

#### **Due to budgetary support in justice sector:**

- the budget of the Ministry of Justice has increased by 60% in 2013 compared to 2012, a fact that led to successful implementation of policies foreseen in the Justice Sector Reform Strategy and transfer of juveniles into a modern penitentiary institution, salary increase in justice sector, etc.

<sup>7</sup> In 2012, the Republic of Moldova benefited from additional funds for reforms in justice sector, access to health services, as well as economic stimulation in rural areas (EURO 28 million). EURO 35 million 2013 To increase the economic opportunities in rural areas, to promote reforms in energy sector (including access to renewable energy), and to increase the cooperation with the Council of Europe, the Republic of Moldova has benefited from.

<sup>8</sup> National Report on official Development assistance granted to the Republic of Moldova in 2013, Chisinau, 2014

EU sector budget support programmes <sup>9</sup>, MEUR

No	Year	Sector	BSP component			Additional BS allocations	Disbursed in previous years (reporting year)	Statute	Disbursed in 2013		Planned disbursements by 2014
			Original amount of allocation	Budgetary support (BS)	TA and other actions				Planned	De facto	
1.	2007	Social	21	20	1	0	20	Completed	-	-	-
2.	2008	Health	46.6	43.45	3.15	6	38.97	Ongoing	6	0	6
3.	2009	Water and sewage	45	37	3	5	32.03	Ongoing	13	0	13
4.	2010	Economic stimulation in rural areas	45	42	3	27	29	Ongoing	13	13	14
5.	2011	Energy	42.6	40	2.6	10	13	Ongoing	13	11.61	14.5
6.	2012	Justice reform	52	50.2	1.8	8	0	Ongoing	15	15	15
7.	2013	Vocational education	25	-	-	-	-	Signed <sup>10</sup> 2014	-	-	0
8.	2013	Visa free regime	20	-	1	-	-	Under preparation	-	-	6
<b>Total</b>			<b>297.2</b>	<b>232.65</b>	<b>15.6</b>	<b>56</b>	<b>133</b>		<b>60</b>	<b>39.61</b>	<b>68.5 <sup>11</sup></b>

<sup>9</sup> National Report on official Development assistance granted to the Republic of Moldova in 2013, Chisinau, 2014

<sup>10</sup> Inserted additionally after the signing in 2014

<sup>11</sup> Under the conditions of anticipated disbursement of first installment based on Visa Free Regime Programme

**The budgetary support in the energy sector has made possible:**

- the development and improvement of primary and secondary legislation, as well as investments in energy efficiency and energy recovery from renewable source actions. 360 European and international standards in energy field have been adopted in 2013.
- the capital for energy efficiency fund has increased by about MDL 200 million in 2013 and over MDL 170 million in 2014. From these funds, the first 84 projects in the field of energy efficiency and renewable energy have been approved.

At the same time, from the 2013 annual financial envelope, two more budget support programmes have been negotiated and approved, such as visa free regime (EUR 21 million) and vocational education (EUR 25 million). The first programme had the purpose to consolidate the institutional capacities responsible for successful implementation of EU visa free regime which was granted to Moldovan citizens on April 28 after full implementation of the Visa Liberalization Action Plan.

Also, in 2013, was adopted the Strategy for the Development of the Management of Public Finances, an important requirement for the budget support.

At present, in Moldova all external assistance is managed by the National Coordination Unit (NCU) within the State Chancellery. However, line ministries are in charge of direct implementation of operations, presenting regular progress reports on implementation of budget support conditionality to the NCU. Delays in delivering results lead to either extension of deadline on the part of EU, or less money than expected, proportional to the achieved results.

Being responsible for monitoring the implementation and evaluation, yearly the European Delegation is presenting evaluation reports, important element in the assistance framework as the disbursement of subsequent tranches depends on it. The European Delegation is the only institution managing monitoring and evaluation, while an added value would be considered developing independent monitoring carried out by line ministries and civil society organizations. Joint monitoring and evaluation processes will strengthen the cooperation, raise the responsibility of the beneficiaries and build up new capacities.

Legislative approximation represents the sector where Moldova has done remarkable progresses, but on the other hand, there are some concerns related to the grade of superficiality during the implementation process. Despite the fact that most of the targets are achieved on paper, not all the reforms are carried out thoroughly. As mentioned above, sometimes lack of time, political will, poor capacity of the administrative staff, insufficient inter-ministerial communication and coordination, or even social demand, can jeopardise the successful implementation of the reforms on the ground. Taking all this into consideration, conditionality makes politicians more responsible in delivering on their commitments, though there is still a need from the EU side to go beyond just political approximation and to focus more on the system and comprehensive completion of the started reforms. This also includes accurate assessment of the feasibility and financial implications of the planned activities. The reform commitments stated in the financial agreements signed with the EU imply huge investments which are partly covered by budget support. However in the long run Moldova might face a significant debt.

## EU SUPPORT TO THE JUSTICE SECTOR REFORMS IN MOLDOVA

The Justice sector was identified by the EU and the Moldovan Government as being one of the key sector that needs to be reformed, thus substantial financial support was directed mainly to this sector.

Although it is considered to be a very sensitive field, hard to be reformed as it implies institutional changes and strong measure to tackle corruption, the reform of the justice sector represents an important benchmark and quality indicator that would influence the advancement of the overall bilateral dialogue between the EU and the Moldovan Government.

The largest budget support that Republic of Moldova has received from the EU was directed to the justice reform sector.

Due to this financial assistance the budget of the Ministry of Justice has increased by 60% in 2013 compared to 2012.

One of the biggest successes, foreseen in the Justice Sector Reform Strategy (2011 - 2016) was the transfer of juveniles into a modern penitentiary institution and substantial salary increase in the justice sector, a mean that aimed at eradicating corruption.

### Specific objectives of the Strategy include <sup>12</sup>:

- strengthening the independence, accountability, impartiality, efficiency and transparency of the judiciary;
- streamlining the process of pre-trial investigation and prosecution, as needed to safeguard human rights, ensure individual security and reduce the level of crime;
- improving the institutional framework and processes that ensure effective access to justice: effective legal aid, examination of cases and

### Budget, MEUR

	Amount	EU contribution	Sector/ministry budget/funding over programme duration
<b>Budget Support</b>	58.2	58.2	88.1
<b>Technical Cooperation (including audit, evaluation and visibility)</b>	1.8	1.8	
<b>Total</b>	60.0	60.0	88.1

enforcement of court decisions within a reasonable time, upgrading the status of some legal professions related to the justice system;

- promotion and implementation of the principle of zero-tolerance to corruption in the justice sector;
- implementation of measures that will allow the justice sector to contribute to the creation of a favorable environment for sustainable economic development;

<sup>12</sup> Financial Agreement between the EU and the Government of the Republic of Moldova, Justice Sector Reforms Programme, p. 23, [www.ncu.moldova.md/lib.php?l=en&idc=478](http://www.ncu.moldova.md/lib.php?l=en&idc=478)

**Summary Indicative disbursement timetable Sector Budget Support (EUR 58.2 million) and  
Technical Assistance (EUR 1.8 million)<sup>13</sup>**

Component	2013				2014				2015				2016		Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	
<b>ANNUAL ACTION PROGRAMME (EUR 50.2 million)</b>															
<b>Fixed</b>		13.0				6				3				1.3	23.3
<b>Variable</b>															
Judiciary						1.2				1.8				2.38	5.38
Investigation and Prosecution						1.2				1.8				2.38	5.38
Enforcement						1.2				1.8				2.38	5.38
Juvenile Justice						1.2				1.8				2.38	5.38
Intolerance towards corruption						1.2				1.8				2.38	5.38
<b>Total Annual Action Programme</b>		13.0				12.0				12.0				13.2	50.2
<b>EaPIC PROGRAMME (EUR 8.0 million)</b>															
<b>Fixed</b>		2.0				3.0				3.0					8.0
Additional measures to improve human rights protection		2.0				3.0				3.0					8.0
<b>Total EaPIC</b>		2.0				3.0				3.0					8.0
<b>TOTAL BUDGET SUPPORT</b>		15.0				15.0				15.0				13.2	58.2
Total Technical Assistance				0.15						1.5			0.15		1.8

<sup>13</sup> Ibidem, page 43

- ensuring effective observance of human rights within judicial practices and policies;
- coordination and definition of powers and responsibilities of key actors within the justice sector and ensuring cross-sectorial dialogue.

The financial Agreement of the support for Justice Sector Reforms programme was signed by the Moldovan Government and the EU on 14 June 2013, the total budget of the programme amounting to EUR 60 million (as budget support) and EUR 10 million (as technical assistance). Up to EUR 58.2 million, including EUR 8 million from the EaPIC programme, are being released as untargeted budget support under direct centralized management to the State Treasury. Disbursement is made in four installments, first two being already granted.

As the objective of the EU Sector Policy Support Programme is to support the Government of the Republic of Moldova in the implementation of its Justice Sector Reform Strategy and the realization of its objectives the Programme will focus on key areas of reform in its conditions for disbursement:<sup>14</sup>

#### **Under Sector Reform Management:**

- an effective sector reform management, coordination and consultative mechanism to be established and fully operational, including an inter-agency coordination council, subsector specific participatory working groups, and institutionalized arrangements for participation and consultation by civil society organizations and donors;
- a comprehensive and approved medium term strategy and implementation action plan under implementation, periodically reviewed for relevance and the need for amendment, with annualized and costs-estimated actions fully reflected in approved state budget allocations for the relevant budgetary agencies, in line with the medium-term

budgetary projections corresponding to the government's priorities for the sector;

- a performance-related monitoring system backed by the generation of relevant statistics and the establishment of a sector-wide information management system compatible across different institutions and stages of the justice process.

#### **Under Reform of the Judiciary:**

- increased independence, professionalism and impartiality of the judiciary, through the strengthening of the professional body (Superior Council of Magistrates), greater use of courtrooms and recording equipment with full public access to raise transparency and accountability, reducing the impact of corruption and increasing public trust;
- improved efficiency through an overhaul of court functions and procedures, improved staffing and data management, and where appropriate enhanced facilities.

#### **Under Reform of Investigation and Prosecution:**

- a separation of investigative and prosecutorial functions, reflected in amended procedural codes;
- a strengthened investigative capacities based around the concept of a fair trials and rules of evidence;
- strengthened independence, impartiality, and professionalism of the prosecution;
- greater protection of victims rights;

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<sup>14</sup> Ibidem, page 23-24

**Under the Enforcement of Judgements:**

- a restructured penal system focusing on rehabilitation and resocialisation best practice and experience, reducing recidivism;
- a strengthened probation service to provide for more holistic support to offenders, manage non custodial responses/sanctions and support social reintegration and reduce recidivism;
- an effective and fair execution of judgements through bailiffs.

**Under Juvenile Justice:**

- legislative and procedural amendments to ensure minimum compliance with the Committee of the Rights of Children standards and the application of best practice for the treatment and care of children and juveniles in the justice system;
- introduction of education, sports, rehabilitation and other programmes to support social and economic integration of those in custody on release;
- adoption of best practice for the handling of children and juveniles in contact with the justice systems whether as offenders or victims.

**Under Intolerance towards Corruption:**

- measures provided by the Action Plan for implementation of the Justice Sector Reform to eliminate corruption in the justice sector being implemented, with established codes of professional conduct enforced through effective self-regulatory mechanisms and professional bodies;

- instruments to fight corruption in the justice sector developed, including strengthening the system of asset and income declaration, introduction of the regular integrity tests and raising salaries.

**Under Additional Measures to Improve Human Rights Protection in Moldova:**

- effective implementation of the Law on ensuring equality, and ratification of Protocol Nr. 12 to the Convention for the Protection of Human Rights and fundamental Freedoms;
- revision of legal grounds for pre-trial arrest and detention as well as legal grounds and procedure for extension of pre-trial detention, with the objective of bringing these in line with the case-law of the European Court of Human Rights;
- consolidation of independence and efficiency of Parliamentary Advocates, enhancing their institutional capacities and creation of the necessary conditions for their effective activity through adducing the Centre for Human Rights' budget in line with the requirements of their legal duties and responsibilities.

The Justice reform and the law enforcement system started to show progresses only after a solid budget increase which was granted once the Moldovan Government has adopted a package of laws on corruption prevention in the justice sector.

The Moldovan Government has taken serious steps in implementing the Law on Ensuring Equality (Law Nr. 121, came into force on 1 January 2013) due to the newly established Council for preventing and eradicating discrimination and ensuring equality.



General Conditions for tranche release <sup>15</sup>

Area	Condition	Source of verification
Sector policies and reforms	Satisfactory progress in the implementation of the 2011-2016 Justice Sector Reform Strategy (JSRS) and Action Plans with financing requirements consistent with budgetary allocations.	Mo J JSRS progress reports; NCLEBR minutes; annual state budgets and MTBF.
Stable macro-economic framework	Maintenance of a credible and relevant stability-oriented macroeconomic policy or progress made towards restoring key balances.	IMF reviews and reports as appropriate.
Public Finance Management	Satisfactory progress in the implementation of the programme to improve public finance management.	GoM and/or donor reports on PFM strategy-implementation.
Transparency and oversight of the budget	Satisfactory progress with regard to the public availability of accessible, timely, comprehensive, and sound budgetary information.	Key budget documents (including the Executive's budget proposal, the Enacted Budget and the Audit report).

<sup>15</sup> Ibidem, page 44

A start was also made on reforming the prosecution system. The resistance to change and the destructive impact of corruption at all levels confirmed once again the complexity of the challenges facing the Moldovan Government as well as the Moldovan society.

Seven working groups were planned to be established to support implementation of reforms in each of the seven pillars of the Strategy, with each Working Group comprising members of all relevant stakeholder organizations. In 2013, a Working Group was created to elaborate the Concept on reforming the Prosecution Service and the draft amendments to the legislation for implementing this Concept (related to: appointment and dismissal procedures, disciplinary measures and demilitarization). The Concept and the draft law were elaborated in November 2013 while the Parliament adopted the Concept only in July 2014. The delay in reforming the Prosecution Service represents, probably, the main outstanding arrear in the implementation of the Justice Sector Reform Strategy, an arrear worth minus EUR 1.8 million from budgetary support provided by the EU for reforming the justice sector<sup>16</sup>. It is clear that only a sustainable political will could guarantee progresses in the law enforcement system.

Tackling corruption and Prosecution Reform as well as the perception of impunity in the justice and law enforcement sectors are the main priorities of the Justice Sector reform. Due to frequent cases of corruption in the judiciary over the years, now the lack of trust in the rule of law is very high. This also affects the business climate discrediting the favorable business environment policies promoted by the Moldovan Government.

In order to tighten the judicial disciplinary process and deal with corruption the Parliament adopted a legislative package in October 2013 consisting of: integrity checks, regulation of judges' communication with third parties and penalties for corruption, including confiscation of unlawfully acquired wealth. An institutional change that casted doubts over the future high level

anti-corruption efforts emerged on May 9 2013 when the Government took on oversight the National Anti-corruption Center which previously was under the Parliament's supervision.

The financial support of the EU in the Justice Sector reform as well as political assistance is not enough in order to register progresses in the judiciary process and anti-corruption field. In order to change the system you need sustainable political will, regardless the electoral loses, as the Justice Sector reform is a painful one and doesn't bring immediate electoral gains or results. Also, thorough implementation of the adopted laws and harsh penalties are required for long lasting adjustments of the institutional practices and changes at the level of human perceptions.

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<sup>16</sup> Achievements and faults in reforming the justice sector of the Republic of Moldova: 2012 – July 2014, Legal Resources Centre from Moldova, [www.crjm.org](http://www.crjm.org)

## ECONOMIC STIMULATION IN RURAL AREAS PROGRAMME

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One of the main fields which benefited from substantial EU financial support was the socio-economic environment in the Republic of Moldova, especially the attention was focused on the rural areas and mainly the less economically developed regions of the country side. In 2010 the European Commission (EC) launched a Sector Policy Budgetary Support Programme called “Economic Stimulation in Rural Areas - ESRA”. The above mentioned programme’s objectives were to: develop better economic policies at the national and sector levels; increase business activities in rural areas; bring more transparency, accountability and effectiveness to the country’s Public Finance Management (PFM) system. The total EU financial support to the ESRA BSP programme during 2010-2013 was EUR 59 million.

**In 2013-2014, with the support of ESRA a series of progresses have been achieved:**

- building a business incubator in Ceadar-Lunga town,
- enhancing the grant fund of National Programme for Economic Empowerment of Youth,
- Credit Guarantee Fund,
- PARE 1+1 Programme of the Agency for Interventions and Payments in Agriculture with MDL 150 million, which awarded over one thousand grants.

Except that, ESRA has offered support to improve the institutional capacities in the field of business environment development. Some of the ESRA successes follow below <sup>17</sup>:

- Development of local capacities through entrepreneurial training programmes;
- Financial assistance to the development of the business support infrastructure in the Republic of Moldova;
  - ⇒ EUR 1,5 million were allocated in the state budget for 2011-2012 for purposes of developing Business Incubators in rural areas. During 3 years, 6 Business Incubators were established in Stefan Voda, Leova, Rezina, Cosnita, Singerei and Ceadar-Lunga.
- Regional development through the economic development of the Republic of Moldova:
  - ⇒ 6 Regional Development Agencies were established, only 3 of them fully functional North, South and Center,
  - ⇒ the Center Regional Strategy was updated,
  - ⇒ several pilot projects in regional development, and critical review of the current legislation were initiated,

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<sup>17</sup> Success stories within the Technical Assistance Program for the Sector Budget Support “Economic Stimulation in the Rural Areas”, European Union’s Neighborhood Programme for Moldova / [www.gfa.esra.md](http://www.gfa.esra.md)

- ⇒ The methodology developed by ESRA was tested successfully in a development project on water supply, road construction, integrated waste management and, in particular, in the renewable energy sector, funded by the National Fund for Regional Development, on the basis of the Call for Proposals from 2010,
  - ⇒ The Ministry of Regional Development and Constructions benefited directly of the consultancy of international experts, as well as the members of Regional Development Agencies and the regional council through its local representative offices.
  - Support to the Small and Medium-Sized Enterprises (SME) sector:
    - ⇒ The following programmes are included in the policy matrix: the National Programme for Economic Empowerment of Youth (NPEEY), the Investment Guarantee Fund (IGF), and the pilot Programme for Remittance Attraction in the Economy (PARE 1+1),
    - ⇒ During 2011-2012, the NPEEY succeeded to create over 100 small businesses and over 140 FTE (Full Time Equivalent) jobs. About 50 (36%) of these jobs were occupied by women. The NPEEY fund of grants (which was used to fund the respective individual or entrepreneurial businesses) amounted to 2 million euro for 2012,
  - ⇒ Under the pilot Programme for Remittance Attraction in the Economy (PARE 1+1), the Moldovan citizens living abroad are encouraged to use their financial resources to set up individual or entrepreneurial businesses, with the necessary institutional framework and facilitating instruments in place. 40 grants were disbursed as part of this Programme, 8 of which to business women. 75 new FTE jobs were created and maintained (through continuous support), 32 of which were occupied by women (38%). The Programme continues in 2014.
  - Assistance provided to secondary vocational education in the Republic of Moldova:
    - ⇒ Under the ESRA Budget Support Programme, eight agricultural colleges, subordinated to Ministry of Agriculture and Food Industry, benefited from technical assistance, received laboratory equipment and didactic materials, for example: small-size bakeries, equipment for laboratories to test wine, milk, soil, and others.
- In 2014, EUR 25 million budget support was granted to the fulfillment of the project “Implementation of the Vocational Educational Training Strategy”.

Indicative disbursement timetable (EUR million) <sup>18</sup>

Financial year	2015				2016				2017				
Type of tranche	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Total
Variable tranches		3.5				10.0				11.5			25.0
<b>Total</b>		3.5				10.0				11.5			25.0

General conditions for the release of tranches <sup>19</sup>

Area	Conditions	Verification source
<b>Public policy</b>	Satisfactory progress in the implementation of VET Sector Development Strategy 2013 - 2020 and continued credibility and relevance of that or any successor strategy.	Ministry of Economy evaluation reports
<b>Macroeconomic stability</b>	Maintenance of a credible and relevant stability oriented macroeconomic policy or progress made towards restoring key balances	Reports by the Governments of Moldova and by international organizations (EU, IMF, WB)
<b>Public Financial Management</b>	Satisfactory progress in the implementation of the programme to improve public financial management	Annual report transmitted by the Government of Moldova and including: (i) the assessment PFM related performance for the previous year, (ii) the progress expected to be achieved by the end of the current year, (iii) the progress expected to be achieved within the medium-term period. Reports by international organizations (EU, IMF, WB)
<b>Third variable Tranche</b>	Satisfactory progress with regard to the public availability of accessible, timely, comprehensive, and sound budgetary information	Reports by the Governments of Moldova and by international organizations (EU, IMF, WB)

<sup>18</sup> Financial Agreement, Support to the of the implementation Vocational Educational Training Strategy, Page 13 / <http://www.ncu.moldova.md/doc.php?l=en&idc=478&id=2285&t=/NORMATIVE-FRAMEWORK/Agreements/European-Union-EU/FA-between-EU-and-the-RM-on-Support-to-the-implementation-of-the-Vocational-Education-Training-Strategy>

<sup>19</sup> Ibidem, page 13-14

The project's main objective is to help the government to reform the VET system. No doubt that a more competent and qualified workforce, in line with current and future requirements of the market, could in the long-term help to increase the competitiveness of the national economy, reduce the high unemployment rate and boost job creation. This EU-funded project set as goal to<sup>20</sup>:

- restructure the VET system, a measure that would increase efficiency and access to professional education;
- increase the quality of teaching staff; promote modern teaching technologies (such as training materials on web platforms and digital databases, specialized literature and software for 100% of VET institution libraries);
- new Information and communications technology (ICT) equipment and digital learning materials in the VET network;
- trainings based on competences.

Vocational education is regarded by the EU as the main educational opportunity to diversify the access of a graduate to the labor market, as well as to diversify the businesses in the economic sector. In the Republic of Moldova the secondary vocational education system underwent a continuous process of degradation. Therefore, during the negotiations with EU, the rehabilitation of this system was established as a priority home work for the Republic of Moldova, which it has to accomplish in the process of harmonization and association with the EU community<sup>21</sup>.

## CONCLUSIONS

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On November 6, 2014 Johannes Hahn, EU Commissioner for European Neighborhood Policy and Enlargement Negotiations and Iurie Leanca, Prime-minister of the Republic of Moldova signed the Memorandum of Understanding on the Single Support Framework for EU support to the Republic of Moldova for the period of 2014-2017 together with a financing agreement to support the implementation of the Deep and Comprehensive Free Trade Area (DCFTA) with Moldova. The financial assistance for the period 2014-2017 amounts at EUR 410 million and EUR 30 million for DCFTA, a sum significantly increased compared to the period 2007-2013 (EUR 561 million).

As you may notice the financial assistance of the EU to Republic of Moldova is increasing as the country shows progresses in its democratization processes, undertakes reforms and harmonizes its legislation to the European *acquis* — *communautaire*. *Nonetheless, the political elites, the Government and the society have to show consistency and get fully involved in the reform implementation although this is painful and long term result oriented.*

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<sup>20</sup> EU Monitor, <http://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vjjsj277raz1?ctx=vgaxlcr1jzkn>

<sup>21</sup> Success stories within the Technical Assistance Program for the Sector Budget Support "Economic Stimulation in the Rural Areas", European Union's Neighborhood Programme for Moldova / [www.gfa.esra.md](http://www.gfa.esra.md)

The quite high absorption rate and the good record of implementation make Moldova one of the most dedicated Eastern European countries when it comes to undertaking reforms. Thus, there are a series of shortcomings which must be addressed by both partners, the Moldovan Government and the EU, in order to strengthen the cooperation and give Moldova the institutional capabilities to absorb, monitor and evaluate the development assistance in a situation when the budget support allocation makes up a significant part of the state budget. More attention should be given to the cooperation between the Ministry of Finance and the line ministries. Trainings should be provided to public officials in line ministries in areas of budget management, project cycle management, monitoring and evaluation. EU should encourage joint monitoring and evaluation processes (EU and Government of the Republic of Moldova), this directly contributing to the strengthening of the cooperation, raising of responsibility and building up of new capacities. Inter-ministerial communication and coordination mechanisms must be developed. The lack of it negatively affects the implementation of the required reforms as well as the political affiliation of the public institutions.

At the same time, it is necessary to make all the phases of the operations more transparent, which means involving civil society in the national evaluation system, as well as raising the degree of availability of the policy matrix and evaluation reports.

When it comes to conditionality, these should become more reasonable, precise and easily measurable. Although conditionality makes politicians more responsible in delivering on their commitments there is still a need from the EU side to go beyond just political approximation and to focus more on the system and comprehensive completion of the started reforms. In order to maintain the sustainable cooperation with the European partners the Republic of Moldova should thoroughly respect and

implement its commitments regarding the intensification of the fight against corruption, vigorously advance reforms in the justice and law enforcement systems, continue the work to ensure media freedom and improve the business and investment environment, continue transparently the privatisation process, deepen the public administration reform, consolidate its system of protection of human rights and fundamental freedoms and the most important of all demonstrate strong political will and prevent resurgence of institutional deadlocks.



# Georgia

Lasha Tugushi, Gogita Gvedashvili  
Liberal Academy - Tbilisi





## EU BUDGET SUPPORT TO GEORGIA: CIVIL MONITORING AND EVALUATION

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The European Union (EU), through its Financial and Technical Cooperation, supports Georgia's reform agenda. More than 100 projects are currently being carried out in Georgia. EU funding for projects in Georgia is provided in the form of grants, contracts and, increasingly, budget support.

The EU's annual budget support program started in 2007 and since then has been growing. The first tranche amounted to EUR 14 million in 2007, and was increased to EUR 65.5 million in 2014. It should be noted that the money is mostly distributed over three years and is transferred to the country in exchange of the implemented reforms.

In the case of budgetary support, the most important document is the financing agreement between the EU and Georgia, that stipulates the terms and conditions of funding. Evaluation of the program as well as external auditing may be carried out if so decided by the European Commission. In such a case, they may ask independent consultants or the European Court of Auditors. It should be noted that the European Union does not monitor all projects or budget support, rather monitoring is carried out based on risk assessment and priorities<sup>1</sup>.

The EU budget support is a form of political message towards Georgian authorities, indicating that it is seen as a reliable partner. In order to get budget support, it is essential that the government is ready to implement structural reforms and to display long-term strategies for future development.

European Union Assistance to Georgia has been provided to implement agreed-upon priorities within the framework of the European Neighborhood Policy Instrument (ENPI). This is aimed to support the capacity-building of the Georgian Governmental Institutions.

Programming of the EU assistance and promotion of the implementation of the reforms are supported within the framework of the National Indicative Program (NIP) and Annual Action Plans. The National Indicative Program carries out financial maintenance of the national programs. Priorities are agreed-upon with the Georgian Government. Since 2012, under the EU's new initiative "More for More," additional funds were allocated to Georgia.

- Since 2007, Georgia is implementing EU budget support programs in the following sectors: Public Finance Management, Regional Development, Criminal Justice, Vocational Education and Training, Agriculture, Civil Service Reform, Deep and Comprehensive Free Trade Area (DCFTA) and Small and Medium Enterprise (SME) development, Internally Displaced Persons (IDP) housing.

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<sup>1</sup> Interview: EU Project Manager, Economic and Public Finance Budget Support Coordinator

## General conditions for tranche release

Area	Condition	Source of verification
<p><b>Sector policy and strategy</b></p>	<p>Satisfactory progress in the implementation of the partner country sector policy and strategy as evidenced by:</p> <p><b>(1)</b> The adoption, after consultation with the key stakeholders (including, inter alia, line ministries, NGOs, farmers' associations, academic institutions and relevant donors, as well as, working groups on agriculture in those regions where have been established, in collaboration with the Regional Development Committees) of the Agriculture Sector Action Plan, which shall be aligned with the adopted Sector Strategy and include specific objectives and results, measurable indicators, timeline and budget.</p> <p><b>(2)</b> Establishment of a Sector Policy Support Program (SPSP) Co-ordination Body, including working groups involving relevant stakeholders (including, other line ministries, NGOs, farmers' associations, academic institutions and relevant donors), responsible for overseeing and monitoring of the implementation of the Strategy and Action Plan, that will meet at least three times a year.</p> <p><b>(3)</b> The percentage of the funding allocated to the Ministry of Agriculture in the draft State Budget submitted by the GoG to the Parliament augments, or at least remains the same as compared to previous year.</p>	<ul style="list-style-type: none"> <li>• GoG Decree on adoption of Agriculture Strategy</li> <li>• Minutes of consultation meetings with the key stakeholders on the Action Plan</li> <li>• GoG Decree on adoption of Agriculture Action Plan with time bound indicators</li> <li>• MoA Decree defining ToRs, working modalities and composition of the agriculture co-ordination body</li> <li>• Minutes of agriculture co-ordination body meetings</li> <li>• Draft State budget for the Ministry of Agriculture elaborated by the GoG and submitted to the Parliament</li> </ul>

<p><b>Macroeconomic stability</b></p>	<p>Satisfactory progress maintaining stability-oriented macroeconomic policy as evidenced by continued implementation of a macroeconomic program supported by the IMF.</p>	<ul style="list-style-type: none"> <li>• IMF, WB and EC Reports</li> <li>• IMF reviews reports under the Stand-by Arrangement (SBA) including possible precautionary SBA</li> </ul>
<p><b>Public Financial Management</b></p>	<p>Satisfactory progress in the implementation of its program to reform public financial management, as evidenced by the Public Expenditure and Financial Accountability (PEFA) assessments, or other dedicated reviews carried out by the EC, the WB or IMF</p>	<ul style="list-style-type: none"> <li>• Available reports/aide-memoires from WB or IMF</li> <li>• EC PFM Reports</li> <li>• PEFA Progress reviews</li> </ul>

The European Commission's review mission in 2014 is responsible for the evaluation of general conditions of EU budget support. The assessment touches upon how the recent analysis of the macro and public financial management situations provide solid evidence of the progress that has been made and the foundations for Budget Support. "The relationship with the IMF is solid, with ongoing finance being provided by the IMF, while the recent PEFA analysis highlights the advances being made in transparency in the implementation of the budget cycle2."<sup>2</sup>

In addition, EU experts sought to understand if they could detect satisfactory implementation of the Action Plan relating to the Agricultural Strategy. Indeed, the experts were able to find evidence of elements of the Plan that are already completed or are in progress. Finally, the Ministry of Agriculture Steering Committee minutes show the dedicated efforts that have been made towards the implementation of the Strategy. All of the critical elements are met for the variable tranches, so as the EU experts have mentioned, they do not need to discuss partial completion for any of the three variable conditions, as they were fulfilled.

Before 2014, the biggest allocated fund in Sector Policy Support for Georgia was in Agriculture 40 mill. EUR meur in 2012. (General budget support 18 meur and Project mode (centralized /joint management): 22M meur).

In February 2012, the Government of Georgia finalized its Agriculture Sector Strategy. This strategy was produced by the Ministry of Agriculture of Georgia in consultation with other line agencies, donors and other stakeholders and reviewed by the Prime Minister Office.

Based on the above, the SPSP will focus on the following four main results, all of which are integral part of the 2012/2022 Georgian agriculture strategy:

- Strengthened co-operation amongst small farmers
- Capacity building for small farmers
- Animal health and food quality
- Capacity building of the institutions involved in agriculture

<sup>2</sup> European Neighbourhood Programme for Agriculture and Rural Development in Georgia (ENPARD Georgia) -Review Mission 2rd Tranche

The execution period of the Agreement is 84 months. General budget support will possibly be allotted in three separate tranches, dependent on compliance with the general and specific conditions. The contract provides that Beneficiary shall establish a permanent internal, technical and financial monitoring system to the project, which will then be used to support the progress reports. Research shows that this part of the program is less transparent and accessible in most cases.

To sum up, in numbers EU Budget Support to Georgia in 2007-2014 under the Annual Action Programme (AAP) allocations constitutes 301 meur. Additional 32.5 meur were made available in 2012-2014 in line with the “more for more” principle: more support for more progress in reforms promoting deep democracy and respect for human rights. In total, the EU has given 333.5 meur of financial aid to the Georgian budget during 2007- 2014.

The new programming document (Single Support Framework), adopted on 11 June 2014, will shape future EU cooperation with Georgia in the period of 2014-2017 (indicative financial allocation for 2014 - 2017 is ^ 335 - 410 million) in these three priority sectors:

- Justice reform (aligning Georgia's laws with the EU legislation across all sectors)
- Agriculture and rural development (implementing the Association Agreement/Deep and Comprehensive Free Trade Area)
- Public sector reform (organizations making up civil society).

## AVAILABILITY, TRANSPARENCY AND QUALITY OF INFORMATION

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The Resolution of the Government N°219 was adopted on August 26, 2013. This resolution focuses on providing information about financial aid (grants and loans) by foreign governments, international organizations, and other government units to a public authority that should be published on an annual basis (Article 5.10).

According to the EU budget support coordinator, the rate of implementation of the EU programs in Georgia, as well as obligations in terms of spending, on average, amounts to 85-95%. As the coordinator states, due to the political sensitivity of the issue the EU press release on budgetary assistance does not indicate the amount of money that had planned to be transferred, only the amount actually transferred is visible <sup>3</sup>. It should be noted that this practice does not provide a basis for comprehensive assessments. For this purpose a more comprehensive data are needed on how effectively the Georgian government uses the EU funding and what challenges are arising during the process of negotiations of agreements on programs as well as their implementation.

The annual reports by the EU budget support coordinator, which evaluate the efficacy and expediency of state funding, are classified documents. The

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<sup>3</sup> Interview: Irakli Khmaladze, EU Project Manager, Economic and Public Finance Budget Support Coordinator

coordinator notes that these reports largely constitute on whether or not the EU will continue to fund the same spheres or whether they will define new priorities. Only documents containing general assessments have been made public annually.

The review of ministry web-pages showed that ministries who have close bilateral relationships with the EU have presented visible information about EU aid. This is especially true of the Ministry of Economy and Sustainable Development, Ministry of Foreign Affairs and Ministry of Corrections and Legal Assistance, where visitors can see a number of bilateral projects that reflect the examples of successful partnership.

In addition, the web page for the “Office of the State Minister of Georgia on European and Euro-Atlantic integration” has comprehensive information about the EU – Georgia partnership. The EU budget support is clearly indicated.

It should be mentioned that there is a special information web page for NATO and EU, the web-page documenting EU – Georgia relations chronology as well as individual programs, their goals, and the funds allocated for each project.

The information is presented clearly on the “EU delegation to Georgia” web site. Although the historical data concerning the bilateral relations being perfectly reflected, there is no separately allocated data about the budget and EU aid. This makes it difficult to find relevant data.

The research shows that in spite of transparency surrounding the EU budget support in Georgia it is hard to find assessments or monitoring reports of EU aid.

## REFLECTION OF THE SECTORAL BUDGET SUPPORT IN GEORGIA’S STATE BUDGETS

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Georgia officially became a participant in the Open Government Partnership (OGP) in August 2011<sup>4</sup>. OGP aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. When Georgia joined, it received a high score for open budgets (two out of a possible two). This high score is based on its access to information law (four out of a possible four), a high score based on the Asset Disclosure for Senior Officials and Politicians index (four out of a possible four), and a score of 6.18 out of a possible 10 on the Civil Liberties category of the Economist Intelligence Unit’s Democracy Index<sup>5</sup>.

Each participating country must develop an OGP action plan through a multi-stakeholder, open and participatory process. The action plan contains concrete and measurable commitments undertaken by the participating government to drive innovative reforms in the areas of transparency, accountability, and citizen engagement.

It must be mentioned that the government did not publish a progress report on implementation, nor did it set aside two weeks for a public comment period, as mandated by the consultation process.

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<sup>4</sup> <http://www.opengovpartnership.org/country/georgia>

<sup>5</sup> [http://www.opengovpartnership.org/sites/default/files/Georgia%20OGP%20IRM%20Public%20Comment%20%28Eng%29\\_0.pdf](http://www.opengovpartnership.org/sites/default/files/Georgia%20OGP%20IRM%20Public%20Comment%20%28Eng%29_0.pdf)

When evaluating efficiency of the EU budgetary support, it is important to consider not only the effectiveness of getting and spending the EU budgetary funds, but also to determine the long-term impact of the assistance, which might be measured indirectly by evaluations of Georgia's reforms by international organizations.

Drawing on the last completed World Bank PEFA assessment from 2012, Georgia has advanced significantly in its **budgetary and financial management** systems since the last PEFA assessment Report in 2008<sup>6</sup>. The World Bank confirms that the basic set of systems has been put in place for strategic budget planning, budget formulation and execution. The integrated public financial management system is being implemented. Several key/core modules are already in place with a full system launch planned for the end of 2013. Good progress, as compared with international practices, is being made in the areas of a predictable budget cycle and legal framework, robust systems for budget preparation, adequate charts of accounts, reliable execution (including accounting and reporting), progress in internal control and external audit, and some definite advancements in the area of program-based budgeting to further the Government's objective of a greater results-focus in fiscal planning.

In the last few years, the analysis of the state budget has shown that the EU and other foreign grantors budgetary aid is presented clearly and transparently. For example: The fifth verse of the second chapter of the 2014 state budget presents detailed information about the amount and priority sectors from the European Union's budget.

Considerable changes have been implemented in **justice reform**. EU's Progress Report on Georgia 2014<sup>7</sup> talks about the important steps towards increased independence of the judiciary were taken with the May adoption of the Law on Common Courts and the selection of the members of the High Council of Justice under new rules that increase transparency and lessen the scope for political interference. The judiciary has become more independent in relation to the Prosecutor's Office. The government

pursued reforms to liberalize criminal policies by facilitating genuine adversarial proceedings and decreasing custodial measures.

Thomas Hammarberg, EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia, in his assessment mentioned: "the continued reforms within the judiciary are now largely in the hands of its internal structures, primarily the High Council of Justice. It is crucial that the competence and professionalism are ensured. Some amendments to the existing legislation may underpin such efforts."<sup>8</sup>

Despite the positive trends, it should be noted that there are still weaknesses in the realm of financial supervision and strategic planning.

Georgia's Public Internal Financial Control (PIFC) reform started in 2010 based on an EU-Georgia agreement that laid the foundation of the PIFC system in 2007. Transparency International Georgia has conducted the research about "Challenges of Public Internal Financial Control in Georgia"<sup>9</sup>. The research showed considerable results. Currently a total of twenty-eight public spenders have internal audit units (IAU), including twelve government ministries. Georgia's consolidated budget in 2013 was about GEL 9 billion, of which GEL 3.535 billion (40 per cent) was spent by public spenders that have no IAUs. This amount is too significant to escape internal scrutiny.

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<sup>6</sup> <http://documents.worldbank.org/curated/en/2013/09/18286451/georgia-public-expenditure-financial-accountability-pefa-assessment-2012>

<sup>7</sup> [http://eeas.europa.eu/delegations/georgia/documents/eu\\_georgia/progress\\_report\\_2013/progress\\_report\\_2013\\_georgia\\_en.pdf](http://eeas.europa.eu/delegations/georgia/documents/eu_georgia/progress_report_2013/progress_report_2013_georgia_en.pdf)

<sup>8</sup> [http://eeas.europa.eu/delegations/georgia/documents/virtual\\_library/cooperation\\_sectors/georgia\\_in\\_transition-hammarberg.pdf](http://eeas.europa.eu/delegations/georgia/documents/virtual_library/cooperation_sectors/georgia_in_transition-hammarberg.pdf)

<sup>9</sup> [http://transparency.ge/sites/default/files/post\\_attachments/Challenges%20of%20public%20internal%20financial%20control%20in%20Georgia.pdf](http://transparency.ge/sites/default/files/post_attachments/Challenges%20of%20public%20internal%20financial%20control%20in%20Georgia.pdf)

Due attention is not paid to the reports of the audit. For example, according to the fiscal year 2014 budget protocols, which currently number 33, the National Audit Office reports have been reviewed only twice, resulting in not a single recommendation.

At the same time, IAUs and procedures in accordance with international standards are less developed with respect to checking that the systems of internal control are addressing the risks, evaluating and improving effectiveness of risk management, control, and governance processes.

Over the past years “Compliance Assessment of the Sector Policy Support Program: Support to Public Finance Management Reform in Georgia” EU assessments highlighted that the External Audit System must be further enhanced to follow recognized international standards. It is characterized by capacity limitations due to weaknesses in its structure, skills of staff, and technical quality of reports. This problem is still present. Unfortunately due to unavailability there was no opportunity to get current compliance assessments from the EU.

Although Georgia has worked out a Strategy for Socio-Economic Development through 2020, the role or importance of this document is not mentioned in the 2015 budget plan. It should be noted that the new budget does not specify increased funding for regulatory institutions, which have a significant role to play as one of the important issues on the European political agenda in order to comply with the current regulations of the DCFTA standards. These examples indicate again that the Government's vision regarding implementation of structural reforms and introduction of international standards lacks consistency.

## MONITORING AND EVALUATION

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The EU regularly conducts monitoring and evaluation of its programs. However, only expert assistance (project mode) undergoes a detailed analysis and audit, while budgetary support is mainly evaluated on the basis of the implemented reforms.<sup>10</sup>

It is important to mention that in Georgia there is not bilateral EU-Georgia working group that monitors EU-funded projects, which would assess and measure projects' results and efficiency. The EU unilaterally, through hiring a private company, is performing audit and evaluations of its aid.

Government officials state that in light of the commitments taken under the terms of the Association Agreement, which include structural reforms, involvement and interest by the ministries toward expert support (project mode) and effective management of the budgetary funds have increased.

Speaking out about the EU budgetary support, government officials unequivocally confirm that the agreement over priority issues is based on bilateral cooperation and in this regard, there have not been any major obstacles. For the most part their visions on political reform agenda are absolutely consistent, although practice shows that more difficulties usually arise in the process of implementation of the agenda.

A memorandum of understanding with regard to the funds allocated in 2014-2017 was signed, which determines whether the funds allocated have been properly spent. This document became necessary, as in the past there had been bad practices, which were associated with speculation on financial management issues. There were occasions when some of the funds were utilized in other areas, according to government priorities.

There are other circumstances in which appropriate feedback is very important in order not to hinder the country's development course.

### Major challenges are:

- Lack of strategic planning and management
- Weak monitoring and lack of risk assessments
- Lack of civil society involvement

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<sup>10</sup> Interview: Roman Kakulia, Head of EU Assistance Coordination Department

There are cases when the EU has reduced dedicated aid for Georgia, for example this year Georgia will not receive 1 million euro for IDP, because the conditions of the policy matrix were not fulfilled<sup>11</sup>. It must be mentioned that effective governance and management on Georgia's IDP support is one of the biggest challenges in EU budget support to Georgia.

In 2013 a special report was commissioned by the European Delegation to Georgia as part of their interim Compliance Review of the Budget Support program - IDP III<sup>12</sup>. The report provided a number of recommendations for the MRA and MRDI/MDF to implement in order to be eligible for the final tranche of budget support. The report found that MRA is not in compliance in most areas. Of particular concern are the standards of construction and the lack of a complaint and redress mechanism that has fallen out of use since the last review. The review also found the Privatization process has been halted while new procedures are produced. The MRA has not provided reports on housing construction, quality or needs for the last two quarters. Nor has it provided minutes of planning meetings for the rehabilitation/construction of IDP accommodation.

This assessment describes categorization of collapsing community centres that was made with Danish Refugee Council (DRC) in 2011. As previously mentioned, the MRA chose not to follow the list in its entirety and instead defined the term collapsing to mean community centres where conditions were very poor but not necessarily structurally unsound. Through the report it is shown that though the review team can understand the rationale, this was not in compliance with the agreement and has left many IDPs in dangerous living conditions.

The review team says “how much knowledge transfer to the MRDI was achieved in developing the proposal is unclear as the document was provided to the MRDI and not developed with them. This means that capacity in problem analysis and solving was not built. The review considers that this document

transfer should instead have been used or presented??knowledge transfer and a TA opportunity was missed”<sup>13</sup>.

However, the Government of Georgia remains committed to the State Strategy and Action Plan for IDPs and has undertaken a major effort to improve the IDP legislation.

There has been considerable progress in reform areas: provision of durable housing solutions for IDPs, their access to sustainable employment and harmonization of IDP law and shift from status to needs based assistance. Though the above-mentioned positive trends, Georgia is steps in the right direction, the country still needs a great effort to establish international standards for IDPs.

The most notable recommendations in 2014 final, Compliance Review for Sector Budget Support Programme (SBSP) "IDP 4"<sup>14</sup> are:

- Improved management system for the implementation of IDP Strategy and Action Plan(s)
- Adequate and improved instruments for the GoG and in particular the MRA to drive further change and coordinate actions with relevant line ministries.

As research shows, during 2007-2014, there was no case of suspension of any EU Budget Support operations. In addition to this, external monitors and evaluators (including the EU Court of Auditors) did not reveal improper use of the Budget Support funds (that are transferred to the state budget), but there

<sup>11</sup> Interview: Irakli Khmaladze, EU Project Manager, Economic and Public Finance Budget Support Coordinator

<sup>12</sup> Special Measures for Support Georgia's IDP Action Pan: 2009 (PART III)

<sup>13</sup> Special Measures for Support Georgia's IDP Action Pan: 2009 (PART III)

<sup>14</sup> Compliance Review for SBSP "IDP 4"



have been cases of delays in meeting the policy objectives. However, these delays have never caused cutting (delaying) more than 40% of the planned disbursements.

The following cases<sup>15</sup> are good examples that relate to the above-mentioned issues:

In 2008 the GoG had the obligation to pass the Law on State Audit Office that would be harmonized with INTOSAI standards. This condition was partially met. The condition related to Internal Financial Management and Control was not met. As a result EU disbursed 0.9 MEURO less (4.1 million out of 5.0).

In 2009 in the Vocational Education BS, authorities partially fulfilled the condition related to the "Improved capacity and co-ordination of VET related activities" at the Ministry of Education and Science (MoES), therefore 0.137 meuro less (out of 5.9 meuro) was disbursed.

In 2013, the EU paid 3.5 meuro (out of 5.8 meuro) of the BS to IDP housing (the remaining 2.3 meuro was paid later). The Government could not manage to construct IDP houses in the defined time and expenditures were not yet incurred by the end of 2013.

Government officials often notice that in comparison with the previous government, inter-governmental coordination in the direction of attracting donors has considerably increased. The number of staff of the EU Aid Coordination Department and in the Prime Minister's Administration has created a whole new body titled the "Donor Coordination Division"<sup>16</sup>. The main task of the Division is the effective coordination of foreign, especially EU aid, as well as the direction of the donor efforts and resources on the priorities defined in the state strategy, aid effectiveness, transparency and improvement for mutual accountability.

Under the leadership of the Ministry of Finance, there are plans to create by the end of 2014 a detailed electronic database of the EU-funded projects, which will be filled out by the ministries on a quarterly basis. The web page will showcase the achievements and challenges of each project. In addition, the grantor and the recipient will fill out special questionnaires and perform project assessments. This project will significantly contribute to the transparency and availability of information and the establishment of good governance<sup>17</sup>.

## CIVIL SOCIETY INVOLVEMENT

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Another important issue is the involvement of the civil society in determination of reforms and, generally, policy agenda. Unfortunately, to-date there are no specific mechanisms to ensure the participation of nongovernmental organizations in the formulation and implementation of policy agenda.

In this regard, the Memorandum of Understanding between the European Commission and the government of Georgia for 2014-2017 should be considered as a step forward, as it involves civil society at all stages of decision-making, including the budgeting process.

With the memorandum and with associated budgetary aid, for the first time a specified amount allocated to the non-governmental sector will be presented in this format. It constitutes 5% of the gross amount. At this stage, however, the specific mechanisms of civic participation remain to be determined. The EU Mission and NGOs commonly work on the roadmap of the civil society involvement

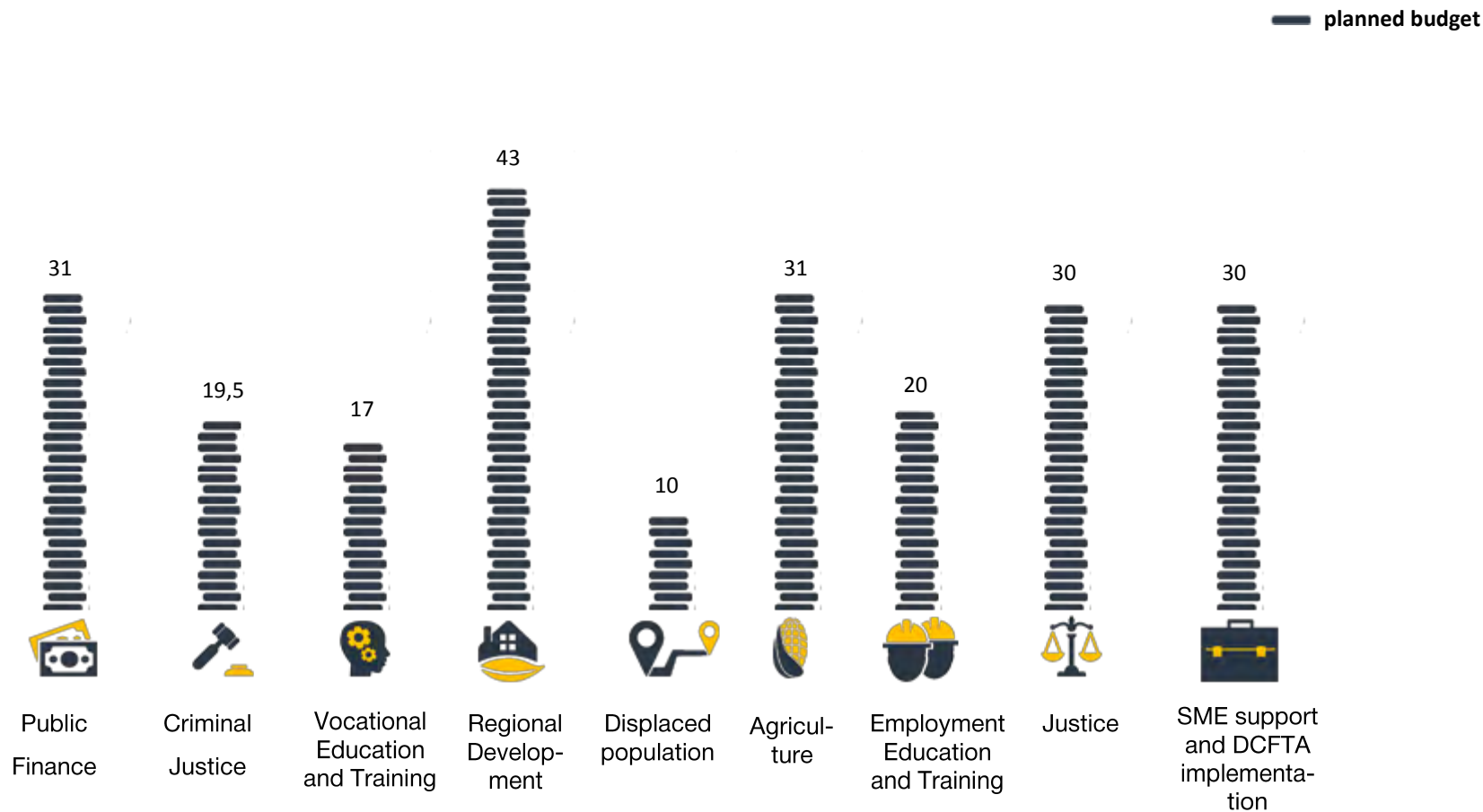
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<sup>15</sup> Source: Delegation of the European Union to Georgia

<sup>16</sup> [http://www.government.gov.ge/index.php?lang\\_id=ENG&sec\\_id=288&info\\_id=43304](http://www.government.gov.ge/index.php?lang_id=ENG&sec_id=288&info_id=43304)

<sup>17</sup> Interview: Roman Kakulia, Head of EU Assistance Coordination Department.

EU budget support to Georgia, MEUR



## EU budget support to Georgia

Year/Action Plan	Priority Direction / Overall Objective	Budget Support
<b>2007 AAP</b>	SPSP Public Finance Management The Overall Objective of the Program is to improve efficiency, transparency and accountability of public finance policy and management in Georgia	<b>14 MEUR</b>
<b>2008 AAP</b>	SPSP Criminal Justice The Overall Objective of the Program is to strengthen the rule of law and human rights protection in Georgia in line with Georgia's own international commitments.	<b>14 MEUR</b>
<b>2009 AAP</b>	SPSP Vocational Education and Training The Overall Objective of the Program is to strengthen Government Capacities in providing Vocational Education aiming at sustainable and inclusive socio-economic development.	<b>17 MEUR</b>
<b>2010 AAP</b>	SPSP Regional Development The Overall Objective of the Program is to create a favorable environment for the socio-economic development of the regions and improve living standards and conditions of the population through a balanced socio-economic development of the regions, increased competitiveness and minimized socio-economic imbalance amongst the regions.	<b>17 MEUR</b>
<b>2011 AAP</b>	SPSP for the Conflict Affected/Displaced population and Host Community. The Overall Objective of the Program is to provide durable housing solutions for IDPs and raise both them and their host communities out of extreme poverty and lessen their dependence on the State.	<b>10 MEUR</b>
<b>2011 AAP</b>	SPSP Criminal Justice The Overall Objective of the Program is to strengthen the rule of law and human rights protection in Georgia in line with Georgia's own international commitments.	<b>15.5 MEUR</b>

<b>2012 AAP</b>	SPSP Agriculture (ENPARD) The Overall Objective of the Program is to increase food production in Georgia and reduce rural poverty.	<b>24.5 MEUR (includes 6 MEUR more for more allocations)</b>
<b>AAP 2013</b>	SPSP Public Finance Management The Overall Objective of the Program is to improve efficiency, transparency and accountability of public finance policy and management in Georgia.	<b>19 MEUR</b>
<b>AAP 2013</b>	SPSP Employment and Vocational Education and Training The Overall Objective of the Program is to stimulate sustainable and inclusive socio-economic development through improved transition from training to employment.	<b>20 MEUR (more for more allocations)</b>
<b>AAP 2013 FA not signed</b>	SPSP Regional Development The Overall Objective of the Program is to create a favorable environment for the socio-economic development of the regions and improve living standards and conditions of the population through a balanced socio-economic development of the regions, increased competitiveness and minimized socio-economic imbalance amongst the regions. (FA not signed yet).	<b>26 MEUR</b>
<b>2014 AAP FA not signed</b>	SPSP Justice The Overall Objective of the Program is to improve the system of administration of Justice, consolidate the rule of law and strengthen human rights protection in line with international standards and best European practices.	<b>30 MEUR</b>
<b>2014 AAP FA not signed</b>	SPSP SME support and DCFTA implementation The Overall Objective of the Program is to assist the Georgian Government in the implementation process of the DCFTA, facilitating Georgia's integration into the EU market and support to Georgian SMEs to adjust to a new regulatory environment.	<b>30 MEUR</b>
<b>AAP 2014</b>	SPSP Agriculture – ENPARD 2012 top up The Overall Objective of the Program is to increase food production in Georgia and reduce rural poverty.	<b>6.5 MEUR (more for more)</b>



# Ukraine

Denis Chernikov  
Open Society Foundation

## EU SECTORAL BUDGET SUPPORT TO UKRAINE

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Signature and ratification of the Association Agreement between Ukraine and the European Union in 2014 requires a more proactive attitude from the Ukrainian government towards the use of international financial and technical assistance. EU budget support in this context is a special field representing challenges in both these aspects. This chapter will consider a number of existing shortcomings in this regard and present recommendations on what the civil society can do to improve the situation.

On the 5 of March, 2014, The European Commission adopted a large support package for Ukraine, with the overall funding envisaged at about 11 bln EUR for the short and medium term. From this amount 3 EUR Bln will be financed from the EU budget and 8 EUR bln will be financed by the EBRD and the EIB <sup>1</sup>.

### More specifically the budget support includes:

- 1,6 EUR Bln will be provided in form of loans as macrofinancial assistance. Two tranches of 100 EUR Min and 500 EUR Min were already disbursed in 2014 <sup>2</sup>.
- 400 EUR Min for sectoral budget support.
- 350 EUR Min in form of a State-Building Contract

Also, grant package will include the following amounts, which are presented here to illustrate the scale of the EU assistance:

- 140 EUR Min to provide support to reforms. In case of progress in protection of human rights and deepening democracy, this amount may be increased to 200 EUR Min, which may be co-financed by the European Neighbourhood Instrument (ENI);
- 130 EUR Min to be provided in 2015-2020 by ENI, and 40-50 EUR mln may be added from ENI 'umbrella' programmes;
- 200-250 EUR Mln may be provided for harmonisation of Ukrainian legislation to EU standards; and
- 20 EUR Mln may be provided by the Instrument for Stability for Police Reform and Holding the Elections, as well as 15 EUR Mln for Security Sector reform.

Conditions of macro financial assistance include a wide list of objectives under the following categories: public finance management (PFM) and anti-corruption, trade and taxation, energy sector, financial sector.

The EU budget support for Ukraine was initiated in 2007. Since then, it has been concentrated on sector reform contracts. The first State Building Contract was concluded only in 2013, although it did not include such category of support as Good Governance and Development Contract.

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<sup>1</sup> [http://europa.eu/rapid/press-release\\_MEMO-14-159\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-14-159_en.htm?locale=en)

<sup>2</sup> [http://eeas.europa.eu/delegations/ukraine/eu\\_ukraine/tech\\_financial\\_cooperation/index\\_en.htm](http://eeas.europa.eu/delegations/ukraine/eu_ukraine/tech_financial_cooperation/index_en.htm)

Between 2008 and 2013 Ukraine and the EU concluded seven sectoral agreements in such spheres as energy (two contracts), removal barriers in trade, energy efficiency, environment, transport, and border management. Volumes of support are presented in table 1, distributed by year and sector.

**Considering the general situation in receiving budget support by Ukrainian authorities, two basic conditions for this can represent the special interest for civil society:**

- good public financial management or a credible and relevant programme to improve it;
- transparency and oversight of the budget (budget information must be made publicly available).

Provision of sectoral budget support confronted with issues in the public procurement system and, moreover, the process of support actually helped to reveal some challenges in the Ukrainian budget system as well.

The Public Procurement (PP) Law, introduced in 2010, has been amended more than 30 times since its introduction, with more and more exceptions being added, and specific sectoral laws on PP adopted (like utilities), thus narrowing application of the EU standards. Exclusions from public tendering adopted in 2010 for the energy sector caused suspension of disbursements from sectoral budget support operations. This is why a new PP law was adopted in 2014.

The present issues in PFM and public procurement are interrelated. Such PFM shortcomings like a lack of strategic and mid-term planning, nonsufficient transparency of budget process and budget programs, and weak internal and external audit consistently provoke emerging of corruption schemes in the disbursement of government funds. This devalues public procurement as an economic, social and the disbursement of government funds. This devalues public procurement as an economic, social and regional policy instrument.

**Along with that, excessive and unjustified demand for state budget funds is warmed up by a number of shortcomings in legal regulation of public procurement, which include:**

- absence of policy strategy for PP development;
- a lot of exemptions from PP Law (7 in 2010, 33 now);
- poor regulation of procurement in utilities;
- weak identification of procurement needs;
- inactive facility of e-procurement; and
- excessive and incoherent mix of control functions which contributes to corruption, not accountability.

Progress in PFM reform was a condition for EU budget support and EU macro-financial assistance.

Introduction of the EU standards in public procurement and state aid is envisaged by the EU-Ukraine Association agenda, whereas detailed obligations are listed in DCFTA part of the EU-Ukraine Association Agreement which came into force recently.

Based on the EU recommendations, Ukrainian government adopted a Concept of PFM System Development in September 2012. This Concept was followed by a Strategy of PFM System Development in August of 2013, which addresses the abovementioned shortcomings plus such issues as VAT refund, public debt management, quasi-fiscal operations, fighting corruption and public access to budget information.

In December 2012 and beginning of 2013 the EU renewed its financing after the mentioned Strategy was adopted.

**This Strategy also has a number of steps to improve public finance transparency, including:**

- Establishment of a “Transparent Budget” web portal;
- Promotion of civil expertise of legal drafts concerning budget legislation;
- Promotion of feedback from civil society about infringements of budget legislation;
- Undertaking of joint actions with civil society aimed at the development of anti-corruption instruments.

Reports on implementation of this strategy were not made public until October 2014, when it was done in order to satisfy one of the requirements listed in performance indicators of the State Building Contract (see below).

As mentioned above, the overall budget of sectoral budget support is about EUR 400Mln, of which the Ukrainian government has received about EUR 200 Mln so far.

**In 2014, 93 Mln euros were expected to be disbursed with the following sectoral distribution:**

- EUR 31 Mln: requested for various sectors in 2013, but not transferred;
- EUR 18 Mln: planned but not requested by the Ukrainian government in 2013 from the EU;
- EUR 44 Mln: funds according to previously agreed schedule.

**Use of sectoral budget support funds is being supported by advice from the EU-funded technical assistance projects, including:**

- Supporting implementation of the Transport Strategy of Ukraine<sup>3</sup>
- Support to the implementation of the National Environmental Policy of Ukraine<sup>4</sup>

Availability and quality of information on budget support is a serious problem for Ukrainian ministries. Despite that these funds become a part of the state budget and therefore must be disclosed according to the Ukrainian budget and economic programming legislation, public information on this matter is minimal.

As will be shown in a table below, the year 2013 was the most intensive in receiving the EU budget support for almost 90 EUR mln. The overall amount of 550 UAH mln is included into separate budget line # 3511650 is much less, then the number published by leading Eastern Europe Foundation<sup>5</sup> using Ministry of Finance data. Moreover, the annual report from the state treasury website does not mention that these funds were actually disbursed!

The line ministries also didn't have the special lines for the EU budget support, except the Ministry for Economic Development and Trade, which received funds for activities related to the removal of technical barriers to trade.

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<sup>3</sup> <http://www.transport-ukraine.eu/en>

<sup>4</sup> <http://www.transport-ukraine.eu/en>

<sup>5</sup> [http://eef.org.ua/img\\_colection/fiie/EC\\_StatepriceReportWEB.pdf](http://eef.org.ua/img_colection/fiie/EC_StatepriceReportWEB.pdf)



Taking into account the norms of Ukrainian legislation, the ministries should have prepared a programme for utilizing the EU support with a list of expected results and made the information on disbursing of the EU money publicly available. This conclusion is derived from the norms of the Article 7 of the Budget Code of Ukraine on transparency of the budget process.

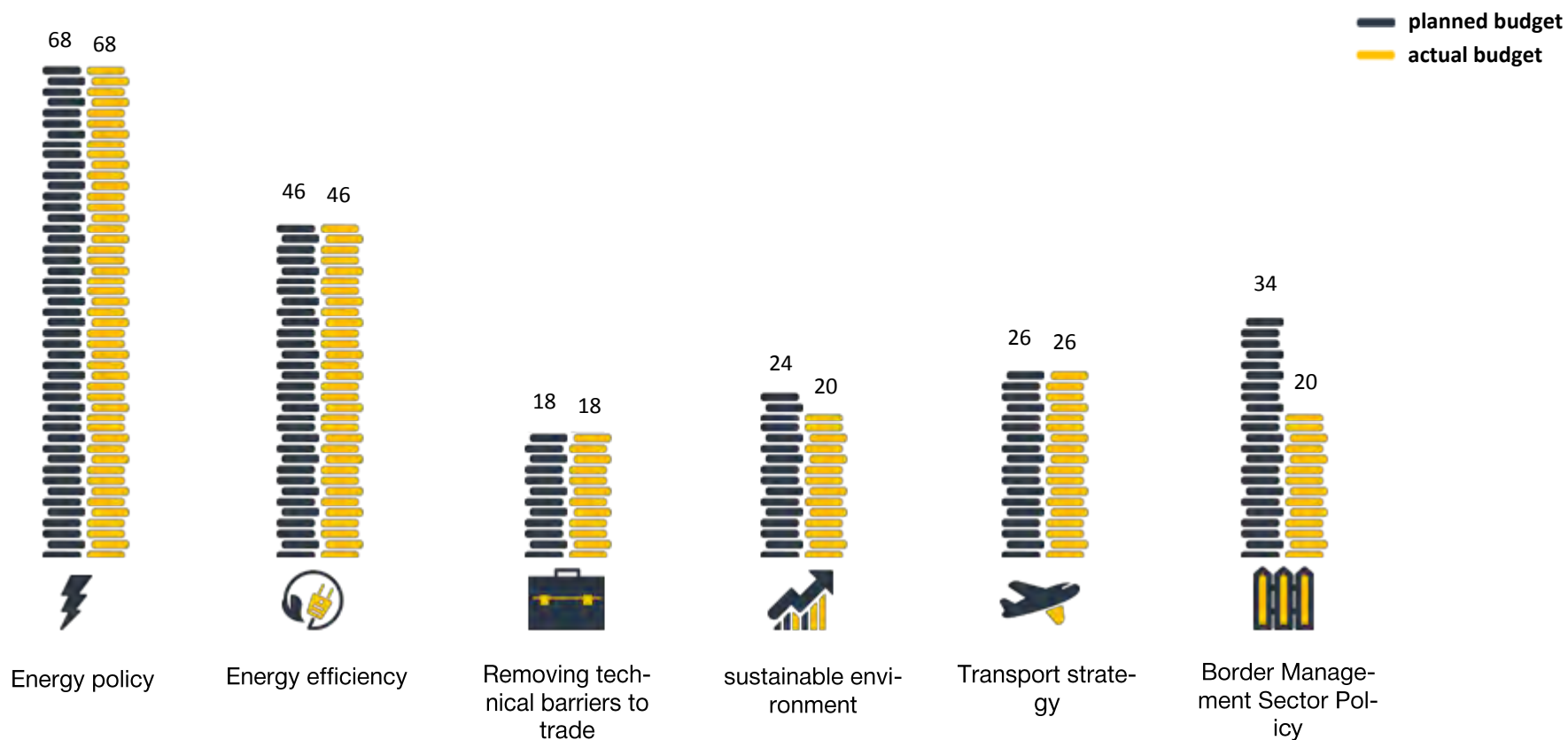
However, the ministries do not publish plans and reports on use of the EU budget support. The most information presented below was found on the EU Delegation to Ukraine website and independent open sources.

Description of overall amounts provided and objectives of current agreements for the EU sectoral budget support are presented below.

**Amount of Funds Received under the programmes of the EU Budget Support for Ukraine, 2008-2014**

Programmes	Total amount		2008	2009	2010	2011	2012	2013	2014
	Budget Support	Technical Assistance							
Support of the implementation of Ukraine's energy policy	68,14	5	23	17			28,14		
Support of the implementation of Ukraine's energy policy in spheres of energy efficiency and renewable sources of energy	46,6	7				31		15,6	
Support of the promotion of mutual trade by removing technical barriers to trade between Ukraine and the EU	17,8	6			12			5,8	13,1 (Still expected in 2014)
Support the implementation of Ukraine's sustainable environmental strategy	24,3	0						20	4,3
Support the implementation of Ukraine's transport strategy	26,5	0						26,5	36 (Still expected in 2014)
Support for Border Management Sector Policy in Ukraine	34,8	-						20	13,95 (Still expected in 2014) 14,775
<b>Total</b>	<b>344</b>	<b>18</b>	<b>23</b>	<b>17</b>	<b>12</b>	<b>31</b>	<b>28,14</b>	<b>87,9</b>	<b>19,1</b>

Amounts of Funds Received under the programmes of the EU Budget Support for Ukraine, 2008-2013, MEUR



**1) Promoting mutual trade by removing technical barriers to trade between Ukraine and the European Union**

**Period:** 2009-2016

**Amount:** EUR 39 million

Expected results:

- Harmonisation of the Ukrainian legal and regulatory frameworks and standards with that of the EU in the spheres of standardisation, market surveillance, metrology and legal metrology, conformity assessment and accreditation.
- Reform of the institutions necessary to implement new legislation, with the focus on the separation of the regulatory, standardisation, accreditation and certification functions.
- Set up of the necessary conformity assessment bodies to ensure third party certification of regulatory requirements. The system must have sufficient technical competence and independence verified by accreditation.

**2) Support to the Implementation of the Transport Strategy of Ukraine**

**Period:** 2010-2014

**Amount:** EUR 65 million

**Amount:** EUR 65 million

Expected results:

- Implementation of the institutional reforms in the transport sector of Ukraine;

- Improved safety and security in the transport sector of Ukraine;
- Improved conditions of the transport infrastructure;
- Increased transport flow throughout Ukraine;

**The administrative capacity to develop and implement the national transport strategy and EU *acquis* approximation**

**3) Support for the Border Management Sector Policy in Ukraine**

**Period:** 2011-2015

**Amount:** EUR 60 million

Expected results:

- Implementation of the Development Concept “Reforming the Performance of the State Customs Service of Ukraine”;
- Adoption of the Revised Customs Code and relevant secondary legislation;
- Implementation of the Integrated Border Management Concept and Action Plan;
- Modernisation of the border infrastructure in line with the state target law enforcement programme 'Development and Reconstruction of the border until 2015 and the sector development strategy”;

- Fight against corruption in the State Border Guards and State Customs Service Improvement of conditions in the temporary holding facilities for irregular migrants (system for early identification of asylum seekers, full observance of human rights in temporary holding facilities).

**4) Continued support for the implementation of Ukraine's energy strategy**

**Period:** 2013-2018

**Amount:** EUR 45 million

Expected results:

- Adoption of a sectoral programme on the reduction of emissions of certain pollutants into the air from the large combustion plants in the electricity sector of
- Ukraine in line with Energy Community Treaty (EnCT) obligations, including a detailed analysis of the needs and a strategy for achieving the necessary investments;
- Enforcement of the national standards concerning the quality of oil products (petrol and diesel fuel) and strengthening the quality control system for compliance with national standards for oil products, which would be auditable and legally enforceable;
- A statement of approach (model) to be adopted by Ukraine for holding the oil security stocks. This model will comprise the establishment of the necessary mechanisms and a plan to progressively build up the crude oil and oil product stocks, in particular in line with the forthcoming obligations under the EnCT, as well as steps on transposition of the oil stocks *acquis*.

**5) Implementation of the Strategy of the National Environmental Policy of Ukraine <sup>6</sup>**

**Amount:** EUR 35 million

**Period:** 2011-2014

Expected results:

The national legislation in the field of environment is made closer to the EU standards and best practices;

- Regional and sectoral environmental policies are adopted and implemented;
- International conventions and multilateral agreements on environment ratified by Ukraine are more steadily implemented thanks to an increased organizational and monitoring capacity of the Ministry of Environmental Protection (MEP);
- Awareness on environmental issues in the public at large is significantly increased;
- Losses of bio- and landscape diversity are limited;
- Application of sustainable use of natural resources mainstreamed.

The detailed analysis of the implementation of the program of EU sectoral budget support to Ukraine in the sphere of environmental protection can be used as an illustration of providing financial support for reforms in specific sectors.

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<sup>6</sup> <http://www.sbs-envir.org/index.php/en/sbs-programme.html>

### EU Sectoral Support in Sphere of Environment Protection

The support mainly aimed at development and implementation of the Strategy of Environmental Policy of Ukraine and the National Action Plan (NAP) for 2011-2015.

The main objective of the project was the approximation of Ukrainian legislation on environmental protection to EU standards. The Ecological Strategy for Approximation of Ukraine's Legislation

towards EU Requirements was prepared and submitted on August 21, 2014.

The project funding was made in three installments (2011, 2012 and 2013): one fixed tranche (15 mln euro) and two more tranches, the size of which depended on the progress of the program (but not exceeding 10 mln euro). The project web-page contains neither the information about the detailed budget for the program, nor the report on the use of funds. Monitoring of the effectiveness of the program was carried out by Joint Monitoring Group, which was formed of representatives of the Ukrainian authorities and the European Commission. Representatives of the environmental NGOs were involved in the monitoring process as observers.

#### Monitoring of Ukraine's obligations was held in the following areas:

- Environmental policies on sectoral and regional levels. In 2012 1857 environmental measures were implemented in the framework of the regional programs. These compose 79.4% of the general progress. At the same time UAH 1,8 billion was provided for the implementation of these measures in 2012. Approximately UAH 1.059 billion was financed (including EU sectoral budget support of UAH 262.5 mln planned and not used).
- Adaptation of the environmental legislation of Ukraine to the relevant EU legislation. The revised Basic Plan of Adaptation of Environmental Legislation of Ukraine to the Legislation of the European Union was developed and approved, pursuant to which 10 legal documents were prepared out of 11 required legal acts.
- Strengthening the institutional capacity to implement the new environmental policies. A draft resolution "On approval of the Procedure of environmental monitoring by enterprises, institutions and organizations, performance of which causes or could cause the deterioration of state of environment" was prepared. The Information and Analytical Center for Environmental Monitoring was established. The working group of environmental NGOs conducted public assessment of Ukrainian environmental policy for 2011. Unfortunately, such practice was not further maintained.
- Implementation of national environmental policies in different environmental sub-sectors, namely climate change, water, air, waste management, protection of flora and fauna. At the same time, two sub-sectors demonstrated the failure of the expected policy results: the waste management (the waste production increased by 6.9% in 2013 compared to 2010, the total amount of waste has increased by 13.32%, while the waste of I - III class hazard level decreased by 44.6%; its number currently amounts to 22.1%), and protection of flora and fauna (as of 2013 the total protected area was 5.9% of the country territory, comparing to 6.9% initially planned).

A **'State Building Contract'** of 350 EUR Mln was signed between the EU and Ukraine in May 2014, and the first tranche of 250 EUR Mln became available in June 2014. Because of severe situation in public finance, this amount was disbursed for the general purposes of state budget. The second tranche (100 EUR Mln) shall be made available in 2015 upon completion of a number of conditions. These conditions, together with **authors' comments** on their

implementation and links to other reform agenda documents are summarized in a table below:<sup>7</sup>

<sup>7</sup> [http://eeas.europa.eu/delegations/ukraine/documents/eu\\_ua/performanceIndicators\\_sbc\\_1.pdf](http://eeas.europa.eu/delegations/ukraine/documents/eu_ua/performanceIndicators_sbc_1.pdf)

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>1. Serious progresses in the fight against corruption by setting up and ensuring effective functioning of a specialised <b>anti-corruption investigative agency</b> for corruption crimes in line with international standards, aligning the definitions of <b>criminal corruption offences</b> with international standards, and the introduction and enforcement of provisions on <b>illicit enrichment</b>.</p> <p>Particular attention should be paid to reforming the justice sector in that regard.</p>	<p>1.1 An <b>operational, specialized agency for detection and pre-trial investigation of corruption criminal offences</b>. The agency should comply with international standards of independence and effectiveness (autonomy from executive authorities and other public agencies, transparent and competitive selection of the head of the agency and main staff, sufficient human and financial resources), foresee the involvement of civil society representatives in monitoring of its (who's?) activities and deal with serious corruption crime (offences committed by persons holding political offices or other public officials of high level, judges, prosecutors or offences posing significant threat to public interest due to high amount of bribe or serious damage caused). Availability of statistics on investigations started by mid- 2015.</p> <p>1.2 Finalised alignment of the <b>Criminal Code of Ukraine</b> with international standards (in particular according to recommendations of GRECO and OECD), including on liability of legal persons.</p>	<p><b>European Agenda for Reform</b> envisages establishment of an anti-corruption authority charged with the detection, the investigation and the deferral to the judicial authority of corruption cases, on the basis of a national anti-corruption strategy.</p> <p><b>Macro-financial assistance for Ukraine Loan Facility includes conditions on:</b></p> <ol style="list-style-type: none"> <li>1) adoption of a national anti-corruption strategy that is in line with international best practice and a State Programme with time-bound deliverables to implement it.</li> <li>2) implementation of comprehensive anti-corruption legislation in line with the recommendations made by the Council of Europe's Group of States against Corruption (GRECO) and other international standards</li> </ol>

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
	<p>1.3 Aligning the <b>crime of illicit enrichment</b> (a significant increase in the assets of a public official that cannot be explained by his lawful sources of income) in the Criminal Code of Ukraine with the UN Convention against corruption.</p> <p>Availability of statistics on the number of cases of illicit enrichment investigated by prosecutors, sent for trial by end of June 2015.</p> <p>1.4 Adoption of the law by the Verkhovna Rada (Ukrainian Parliament) allowing <b>reform of the Prosecutor General's Office</b> and it enters into force.</p> <p>1.5 Adoption of the <b>amendments to the Constitution</b> by the Verkhovna Rada ensuring the strengthening of the independence of judges and their entering into force.</p> <p>1.6 Adoption of laws by the Verkhovna Rada setting out the status Verkhovna Rada setting out the status of the <b>High Council of Justice</b>, the justice <b>system and the status of judges</b> and their entering into force</p>	<p><b>Progress of implementation</b></p> <p><b>A package of anti-corruption laws</b> was passed by Ukrainian parliament and signed by the president of Ukraine in October 2014, including:</p> <ul style="list-style-type: none"> <li>- Anti-corruption strategy for 2014-2017;</li> <li>- Creation of a special authorized body on fighting corruption (anti-corruption bureau);</li> <li>- Law on prevention of corruption; On identification of final beneficiaries of legal persons and politicians.</li> </ul>

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>2. Strengthened integrity and accountability in the public sector through improved and effectively enforced procedures for <b>declaration and verification of incomes, assets and expenses</b> and for the prevention of conflict of interests of different categories of public officials.</p>	<p>2.1 Effective <b>system for verification of declarations of assets</b>, income and expenses of public officials is in place and operational, dissuasive sanctions for submission of false information in declarations is introduced, threshold for declaration of expenses is significantly reduced, a single webportal for submission in electronic form and publication of declarations with open access to the portal is set up, other provisions on asset disclosure are improvement in cooperation with civil society and international stakeholders.</p> <p>2.2 <b>Reformed system of prevention and resolution of conflicts of interests</b> of civil servants, persons holding political offices, judges, prosecutors, and other public officials.</p> <p>Improved provisions on declaring of interests by public officials (ownership by the official or his affiliated persons of company shares, membership in management or supervisory bodies of civic associations, etc.).</p>	<p><b>Progress of implementation</b></p> <ul style="list-style-type: none"> <li>• Law on ‘Clearing of Authority’ (lustration), which was passed by the parliament and signed by the president of Ukraine in October 2014, includes relevant instruments.</li> </ul>



Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>3. Transparency and competitiveness in <b>public procurement</b> via significant reduction of the list of exceptions from the sphere of public procurement, ensuring competitive procurement and access to information related to public procurement, in particular by public enterprises.</p>	<p>3.1. <b>List of exceptions</b> from Ukrainian PP Law is significantly <b>reduced</b> and put in line with the categories of exceptions foreseen by the EU PP Directives.</p> <p>3.2. <b>Decrease in use of noncompetitive procurement</b> (negotiated procedure) to 10% of total public procurement in the first half of 2015.</p> <p>3.3. <b>Publication of the information</b> on procurement going through noncompetitive procedures and procurement by public enterprises, annual public procurement plans and reports on execution of contracts on the web-sites of procuring entities, information about sub-contractors and amendments in substantial provisions of contracts, procurement contracts, information on consideration of complaints by the review body.</p>	<p><b>Macro-financial assistance for Ukraine Loan Facility includes conditions on:</b></p> <ul style="list-style-type: none"> <li>- establishing a system of public procurement based on the principles of transparency, competition and non-discrimination among tenderers. With a view to increase transparency, to be published on a quarterly basis with data on the number and the value of competitive procurement procedures and sole-source procurement procedures;</li> <li>- as stipulated by the Law of Ukraine “On carrying out public procurement”, make the Anti- Monopoly Committee operational as the authority to handle appeals in the sphere of public procurement.</li> </ul> <p><b>Progress of implementation</b></p> <p><b>New edition of Public Procurement Law was passed in April 2014</b>, reducing the number of exceptions. Data about competitive and sole-source procurement are published by the Ministry of Economic Development and Trade: the Ministry of Economic Development and Trade: <a href="http://tender.me.gov.ua">http://tender.me.gov.ua</a> Basic PP legislation includes most of the principles envisaged by the EU Directive 2004/18 on the coordination of procedures for the award of Public Works Contracts, Public Supply Contracts and Public Service Contracts.</p>

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>4. Seriously improve <b>access to information</b> that is of public interest through aligning with the Access to Public Information Law of other legislative acts, setting up an institutional basis for independent oversight of the Access to Public Information Law implementation and ensuring access to public registers.</p>	<p>4.1. Full implementation of the <b>Access to Public Information Law</b> by bringing in line with it other currently contradictory acts, including via consultative process with civil society.</p> <p>4.2. Establishment of an effective institutional basis for <b>independent oversight</b> of the Access to Public Information Law implementation via consultative process with civil society and relevant stakeholders as well as in line with good European practices.</p> <p>4.3. <b>Access</b> (including access through internet) to <b>public registers</b>, namely, the Single State Register of Legal Entities and Private Entrepreneurs (including information on their beneficial owners), State Register of Immovable Property Rights (including information on persons who hold these rights), and the land cadastres.</p>	<p>A law, improving access to register of immovable property rights and to register of legal entities and private entrepreneurs (including information on their beneficial owners) was passed in October 2014.</p>

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>5. Increased <b>transparency and accountability in Public Finance Management (PFM)</b> via quarterly publication of the Report and pressrelease on the PFM Strategy and Action Plan implementation on the Ministry of Finance website, regular consultations with civil society and international stakeholders.</p>	<p>5.1 Publication of <b>quarterly reports</b> on the <b>PFM</b> Strategy and Action Plan implementation, covering achievements of the previous quarter and objectives for the following quarter.</p> <p>5.2 Quarterly <b>publication of a summary note for general public and media</b>, presenting achieved results as well as short- and medium-term objectives of the PFM Strategy and Action Plan so as to further improve quality, transparency and accountability in the management of public finances.</p> <p>5.3 Press releases reflecting <b>consultations with civil society</b> and international stakeholders on the PFM Strategy and Action Plan implementation.</p>	<p>Report on PFM Strategy implementation was released in October, 2014</p>

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>6. A comprehensive <b>reform of civil service and service in local selfgovernment bodies</b> focusing on European principles of public administration such as separation between civil service and political positions, separation between public sphere and private sphere, a merit-based approach to recruitment and promotion, stability of employment and guarantees against discretionary dismissal is adopted and effectively implemented.</p> <p><b>Administrative legal framework and public service delivery</b> are improved as part of efforts to increase effectiveness of public administration</p>	<p>6.1. <b>Strategy and an Implementation Plan on reform of civil service and service</b> in local self-government bodies based on European government bodies based on European principles of public administration are adopted and published. Both documents should take into account the need to reform the salary system of civil servants and servants of local self-government bodies, as well as the need to ensure overall management in the area of civil service through institutional improvement of specially authorized central executive body for civil service at the national level and its territorial bodies at the local level.</p> <p>6.2. <b>Law "On civil service"</b> (or amendments to the current one) based on European principles of public administration is adopted by the Verkhovna Rada and it enters into force. Laws "On Cabinet of Ministers of Ukraine", "On Central executive bodies" and "On Local state administrations" and other laws related to public service are aligned with the Law "On civil service" and effectively enforced. Relevant sub-laws are adopted and/or existing ones are amended.</p> <p>6.3 <b>Law "On service in local self-government bodies"</b> based on European principles of public administration and good European practices, as well aligned with the law "On civil service" is adopted by the Verkhovna Rada and it has entered into force. Other legislative acts related to service in local self-government bodies are aligned with the law "On service in local self-government bodies". Relevant sub-laws are adopted and/or existing ones are amended.</p> <p>6.4. <b>Administrative Procedure Code</b> is adopted by the Verkhovna Rada and it enters into force through an Implementation Plan aimed at revision and improvement of sector-related administrative procedures.</p> <p>6.5 <b>Law "Administrative services"</b> is effectively implemented, including establishment of new Administrative Services Centres and effective performance of existing ones.</p>	<p>The government adopted the concept of local government reform in April 2014 and its implementation plan was released in June. These documents are focused on providing more powers to local self-government together with more financial resources. To secure LSG financial capacity, a package to amend the current Budget Code was prepared in summer 2014. The other points include legal facilitation of co-operation between local communities (law passed in June, 2014) and local community amalgamation (draft law being considered by the parliament). Draft laws on civil service as well as draft law on service in local selfgovernment bodies are in progress of preparation.</p>

Conditionality	Performance indicators	Comments on implementation and links to other conditions of EU assistance
<p>7. Completion of the <b>constitutional reform</b> through an inclusive and participatory process including active consultations with civil society and in line with the Venice Commission recommendations.</p>	<p>7.1. <b>Civil Society Organisations are consulted</b> in a structured and regular process.</p> <p>7.2. <b>Recommendations of the Venice Commission</b> are taken on board.</p> <p>7.3 <b>Law on the Amendment of the Constitution</b> is enacted.</p> <p>7.4 <b>Independent investigations of violent acts</b> on both sides which occurred during the civil protests in November 2013-February 2014 are conducted with the support of the International Advisory Panel proposed by the Council of Europe.</p>	<p>Completion of a comprehensive constitutional reform is one of the items of the <b>European Agenda for Reform</b>.</p>
<p>8. <b>Harmonisation of electoral legislation and political parties financing</b> (including on state financing) completed through an inclusive and participatory process in line with the OSCE/ODIHR and GRECO recommendations.</p>	<p>8.1. <b>Recommendations of the ODIHR</b> are taken on board.</p> <p>8.2 Adoption of the relevant Laws by the Verkhovna Rada harmonizing the <b>Electoral Legislation</b> and it enters into force.</p> <p>8.3 <b>Recommendations of GRECO on Transparency of Party Funding</b> are taken on board.</p>	<p>Relevant tasks are included into Anticorruption strategy for 2014-2017 (see above), including establishment of the transparent principles of funding elections, the activity of political parties, the elimination of corruption risks in the activities of elected bodies, and the tightening of public control over their activities.</p>

## PROCEDURE OF PROVIDING AND MONITORING OF THE EU SUPPORT

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EU sectoral budget support is reflected in state budget of Ukraine, both by revenue and expenditure lines.

A legal background for obtaining and utilizing support is defined by agreements concluded between Ukraine and the EU, drafts of which are approved by the Cabinet of Ministers of Ukraine.

The Government resolution # 841 from 15 September 2010 adopted a procedure of preparation, implementation and monitoring of the EU sectoral budget support programmes in Ukraine.

### **This procedure includes the following stages:**

- Preparation of a list of indicators by an interministerial working group, which may also include Ukrainian experts as well as EU experts and EU member states experts. Such a list, after internal approval by the Ministry of Economic Development and Trade is to then be submitted to the European Commission.
- Preparation of the financing agreement. This agreement must also include a programme, stipulating objectives of reform in the particular sector and expected results, volumes of budget support and conditions of its receiving, and monitoring procedure.

- After the financing agreement becomes effective, the line ministry responsible for it, 'if necessary' as stipulated by decree # 841, may submit to the Cabinet of Ministers a draft order on achieving the indicators and expected results.
- As soon as the law on state budget is adopted, Ministry of Finance shall address the European Commission with a request to proceed with a first or next tranche.
- Use (disbursement) of funds received is done by line ministries according to the budget legislation of Ukraine.
- Line ministries may also request technical assistance to support use of budget support funds.
- Line ministries shall establish a joint monitoring group, which includes public servants and the EU experts.
- Monitoring results are reported quarterly to the Ministry of Economic Development and Trade, and the Ministry of Finance. In case some issues exist preventing the completion of the indicators, ME should inform the Cabinet of Ministers and submit proposals aimed to solve these issues.

This procedure has a number of ambiguous norms, which do not contribute to efficient use of budget support. Whereas availability of a reform programme or strategy is obligatory, submission of an action plan aimed to implement reforms in a given sector is voluntary. Therefore line ministries may be left on their own in reform process, whereas it almost always requires responsibility (commitment) sharing with other agencies.

Another point that needs to be stressed is the use of budget funds according to the Ukrainian budget legislation. Indeed, there is no harm in such wording, since obviously the budget support shall be used only in that one way. However, considering some peculiarities of Ukrainian budget legislation that we may suppose, this formula can be used to avoid EU budget support use strictly for the programme objectives.

The problem here is that the basic procedure does not prescribe how the EU budget support shall be linked with budget programmes of line ministries: should it be a specific budget line for each ministry with a list of expected results included, or should it be disbursed among a number of other lines? The latter option, of course, makes following the programme objectives more difficult, as well as monitoring and evaluation. Practically, the EU support may be spread between existing lines and used mostly for their objectives, not those mentioned in the financial agreement. Nonspecific or flexible wording of objectives in the agreement as well as in budget programmes paves the way to financing some items needed by the ministry but irrelevant to reform process.

**Considering the abovementioned, the following recommendations can be offered for civil society organisations:**

1. Make full use of the instruments provided by the legislation on access to public information to reveal and disseminate the facts on use of the budget support.
2. Introduce the issues of acquiring and use of the EU budget support into agenda of the civil boards of the respectful line ministries.
3. Get involved in expert groups on the stage of preparation of the sectoral agreement and ensure norms of transparency and accountability. Make your proposals on transparency public and advocate them in the media, civil boards within ministries and national-level civil society platforms.
4. At the implementation stage, get involved with the monitoring group. Participate regularly in progress of implementation review and disseminate information obtained at monitoring group meetings.
5. Co-operate with independent sectoral experts to objectively evaluate the progress achieved in implementing the financing agreement conditions.
6. Advocate full implementation of the basic requirements of budget legislation related to transparency and accountability of budget expenses. Remind the ministries about the obligation to make the budget process transparent and available for civil society participation.
7. Get involved in the consultation process with the central government and bring about the agenda of transparency of the EU budget support



The European Union is made up of 28 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms.

The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders. The European Commission is the EU's executive body.

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