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## **Honouring of obligations and commitments by Ukraine**

Recommendation 1722 (2005)

Reply from the Committee of Ministers

adopted at the 952<sup>nd</sup> meeting of the Ministers' Deputies (11 January 2006)

1. The Committee of Ministers has carefully considered Recommendation 1722 (2005) and supports the observations made by the Assembly regarding Ukraine in its Resolution 1466 (2005), to which Recommendation 1722 (2005) refers.
2. The Committee of Ministers acknowledges and supports the efforts made since December 2004 by the new Ukrainian authorities to introduce reforms and to fulfil the commitments undertaken by Ukraine upon accession to the Council of Europe. It encourages the Ukrainian authorities to step up these efforts and stands ready to provide them with all necessary assistance, in the areas of competence of the Council of Europe.
3. In this context, the Committee of Ministers recalls that the Deputies, at their 930th meeting on 15 June 2005, approved an action plan for co-operation between the Council of Europe and Ukraine, which was elaborated in close co-operation with the Ukrainian authorities.
4. This action plan aims to support Ukraine in meeting its statutory and specific obligations as a member state of the Council of Europe, providing a comprehensive package of action to bring Ukrainian legislation, institutions and practice into line with the standards of the Organisation in the areas of human rights, democracy and the rule of law.
5. As regards specific issues raised in Recommendation 1722 (2005), the Committee of Ministers wishes to draw the Assembly's attention to the fact that the action plan foresees a wide range of activities which it considers particularly important for the long-term democratic development of Ukraine, namely:
  - assistance to the Ukrainian authorities in defining with the Council of Europe Venice Commission a constitutional reform strategy, with a view to developing a coherent and functional system of government that ensures a proper balance between the main branches of power in the state;
  - legal assistance for harmonisation of Ukrainian legislation with European norms, including relevant Council of Europe conventions. The Committee of Ministers refers to its Recommendation Rec(2004)5 on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights (ECHR), adopted at its 114th Session on 12 May 2004 and to the Third Summit's commitment to ensure that this is done. Such reviews help strengthen the domestic implementation of European human rights standards, including in Ukraine, and are an effective means of identifying and addressing issues which otherwise might become the subject of applications to the European Court of Human Rights. The Committee considers that the establishment of such a review mechanism by all member states, including Ukraine, would greatly contribute to improving the domestic implementation of ECHR standards and to the ongoing efforts to reduce the caseload of the Court. At the same time, the Council of Europe stands ready to provide expertise on the compatibility of draft legislation with the human rights standards of the Organisation;

- a project with the European Commission on assistance to strengthen implementation of the ECHR at national level through training on the Convention for judges who did not undergo such training as part of the project already completed in this field, or who are in need of in-depth training. This will complement a major project currently under way to train and develop local capacity on the ECHR for prosecutors throughout the country;
- assistance to improve existing and draft legislation in the field of local self-government and to support development of a National Training Strategy, in order to contribute to the proper implementation of the European Charter on Local Self-Government;
- training for young officials to instil a firm understanding of Europe and European standards, which they will apply in their work;
- support to civil society to strengthen the democratic skills of young representatives of media, political and civil society structures;
- capacity building for NGOs and the public authorities and the creation of a Kyiv School of Political Studies – intended to strengthen pluralist democracy;
- three major projects with the European Commission to address good governance and the fight against corruption, international co-operation in criminal matters, combating money laundering and the financing of terrorism;
- a significant project to assist in improving the independence of the judiciary, develop a High Council of Justice and an independent and professional Bar Association, including adoption of legislation for the provision of free legal aid, improvement of the execution of sentences and development of police ethics. The project, which in parts might be implemented with the European Commission, also aims to address the need to subordinate the State Judicial Administration to the judiciary;
- a creative new action plan to foster freedom of expression and freedom of the media in Ukraine, including technical assistance to align legislation with Council of Europe standards and build capacity. The focus is on the development of a truly independent public service broadcasting organisation and the reinforcement of guarantees for freedom of expression. Action is also foreseen to promote balanced media coverage of elections and encourage ratification of the European Convention on Transfrontier Television;
- a project to assist in improving prison conditions and the treatment of prisoners, dealing with overcrowding, developing appropriate classification and allocation of prisoners, prison regimes and training of staff;
- assistance in the preparation of Ukraine's first national report as soon as the Revised Charter enters into force in respect of this country. The Committee of Ministers urges the rapid ratification of the Revised Charter and trusts that this will happen early in 2006;
- support for the preparation for ratification of the Convention on action against trafficking in human beings.

6. The Committee of Ministers regularly reviews the state of ratification of certain instruments, including Protocols No. 12 and 14 to the ECHR at each of the six meetings held every year to supervise the execution of the Court's judgments. It is willing to provide assistance to Ukraine for the ratification of Protocol No. 14 to the ECHR if needed. The ratification process should be rapidly completed by all parties, including Ukraine, in order to secure the entry into force of Protocol No. 14 within the time-frame decided at the 114th Session and confirmed at the Third Summit.

7. The Committee of Ministers wishes to underline the fact that full funding for the action plan is not yet secured and invites member states to provide voluntary contributions to complement Council of Europe and possible EC funding.

8. The Committee of Ministers is willing to make available to the Ukrainian authorities appropriate assistance to their efforts to resolve the Gongadze case, without prejudice to any obligations Ukraine may have under Article 46 of the ECHR in this regard (see, in this context, the judgment of the European Court of Human Rights in the Case of Gongadze v. Ukraine, 8 November 2005). The Committee of Ministers will continue to ensure, as it does for any member state, that Ukraine adopts all necessary measures to comply

with the judgments of the European Court of Human Rights. The Committee is closely supervising, *inter alia*, the adoption by Ukraine of general measures to prevent new violations of the Convention similar to those found in the past and relating to the lack of independence of the judiciary, the persistent non-enforcement of domestic judicial decisions, abuses by members of the security forces and the lack of effective domestic remedies against such abuses. Some of the projects mentioned above will no doubt help Ukraine to meet its obligations under the Court's judgments. The Committee counts on the full co-operation of the Ukrainian authorities in this respect.

9. The Committee of Ministers takes note of the recommendation of the Parliamentary Assembly to reinforce the Council of Europe's presence in Ukraine, including by the designation of a special representative of the Secretary General in charge of the co-ordination of the Council of Europe co-operation programmes, and will continue to consider these and other measures aimed at enhancing the capacity of the Organisation to support Ukraine's efforts to reform and to secure full and efficient implementation of the action plan.

10. The Committee of Ministers expresses its readiness to provide such support as the Ukrainian authorities might require in order to ensure that the elections to the Verkhovna Rada, foreseen for 26 March 2006, are conducted in a free and fair manner.

11. The Committee of Ministers will continue to follow closely the situation in Ukraine as regards respect for human rights, pluralist democracy and the rule of law.