

# EU/Ukraine Association Agreement: treatment of third country nationals legally employed as workers in the territory of the other party

2013/0151B(NLE) - 15/05/2013 - Preparatory document

**PURPOSE:** to conclude an Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part.

**PROPOSED ACT:** Council Decision.

**ROLE OF THE EUROPEAN PARLIAMENT:** Council may adopt the act only if Parliament has given its consent to the act.

**BACKGROUND:** relations between the EU and Ukraine are currently based on the Partnership and Cooperation Agreement which entered into force in 1998. At the 13th EU-Ukraine Summit in Paris in 2008, the leaders of the EU and Ukraine agreed that the Partnership and Co-operation Agreement should be succeeded by an Association Agreement.

The EU-Ukraine Association Agreement is the first of a new generation of Association Agreements with Eastern Partnership countries. Negotiations of this **comprehensive and ambitious Agreement between the EU and Ukraine** were launched in March 2007.

The Association Agreement aims to accelerate the deepening of political and economic relations between Ukraine and the EU, as well as Ukraine's gradual access to parts of the EU Internal Market including by setting up a Deep and Comprehensive Free Trade Area (DCFTA). It is a concrete way to exploit the dynamics in EU-Ukraine relations, focusing on support to core reforms, on economic recovery and growth, governance and sector co-operation.

The Agreement also constitutes a reform agenda for Ukraine, based on a comprehensive programme of approximation of Ukraine's legislation to EU norms, around which all partners of Ukraine can align themselves and focus their assistance. EU assistance to Ukraine is linked with the **reform agenda** as it emerges from the Agreement. The Comprehensive Institutional Building Programme is particularly important in this regard.

On 30 March 2012, the chief negotiators of the European Union and Ukraine initialled the text of the Association Agreement. The trade negotiators from both sides initialled the DCFTA part of the Agreement on 19 July 2012.

Measures are provided as regards the provisional application of the Agreement in view of keeping mutual economic interests and shared values in equilibrium, and the common will of the EU and Ukraine to start implementing and enforcing various parts of the Agreement in order to advance an early reform impact on sector specific issues before the conclusion of the Agreement.

**IMPACT ASSESSMENT:** no impact assessment was undertaken.

**LEGAL BASIS:** Article(s) 217, in conjunction with Article 218(6)(a) and the second subparagraph of Article 218(8) thereof, as well as Article 218(7) of the Treaty on the Functioning of the European Union.

**CONTENT:** with this draft Decision, the Commission proposes to conclude, on behalf of the European Union, an Agreement between the Union and its Member States of the one part and Ukraine of the other part, together with the Annexes and Protocols attached thereto.

**Objectives:** this Agreement constitutes a new stage in the development of EU-Ukraine contractual relations, aiming at **political association and economic integration** and leaving open the way for further progressive developments.

The overall aims of the association focus on:

- promoting a gradual rapprochement between the parties on the basis of common values,
- providing enhanced political dialogue,
- promoting, preserving and strengthening peace and stability in both the regional and international dimensions,
- establishing conditions for enhanced economic and trade relations leading towards Ukraine's gradual access to parts of the EU Internal Market;
- enhancing Justice, Freedom and Security (JFS) cooperation with the aim of reinforcing the rule of law and respect for human rights and fundamental freedoms,
- establishing conditions for increasingly close co-operation in other areas of mutual interest.

**General Principles:** these include a specific set of "essential elements", the violation of which by one of the Parties could give rise to specific measures under the Agreement, **including the suspension of rights and obligations**.

These elements are respect for:

- democratic principles,
- human rights and fundamental freedoms as defined in relevant international instruments,
- respect for the rule of law,
- promotion of respect for sovereignty and territorial integrity, inviolability and independence,
- countering the proliferation of weapons of mass destruction, related materials and means of delivery.

Other General Principles of the Agreement relate to the principles of a free market economy, good governance, the **fight against corruption, the fight against trans-national organised crime and terrorism**, the promotion of sustainable development and effective multilateralism.

**Political dialogue:** the Agreement sets out the aims of an enhanced and strengthened political dialogue promoting gradual convergence on foreign and security matters with the aim of Ukraine's ever deeper involvement in the European security area. It establishes a number of fora for the conduct of political dialogue, and provides for dialogue and co-operation on domestic reform based on the common principles set out by the Parties. There are also provisions for **intensified dialogue on foreign and security policy**, including CSDP, for the promotion of peace and international justice by ratifying and **implementing the Rome Statute of the International Criminal Court**, and for joint efforts on regional stability, conflict prevention, crisis management, military/technological co-operation, anti-terrorism, antiproliferation and disarmament and arms control.

**Free-trade:** closer economic integration through the DCFTA will be a powerful stimulant to the country's economic growth. Approximation of Ukraine to EU legislation, norms and standards, will be the method. As a core element of the Association Agreement, **the DCFTA will create business opportunities in both the EU and Ukraine** and will promote real economic modernisation and integration with the EU. Higher standards of products, better services to citizens, and above all Ukraine's readiness to compete effectively in international markets should be the result of this process.

**Justice/Foreign affairs:** in the field of Justice Freedom and Security, the Agreement pays particular attention to the rule of law and to the reinforcement of judicial institutions and practices.

It sets out the framework for co-operation on:

- migration,
- asylum and border management,
- personal data protection,
- money laundering and terrorism financing,
- anti-drugs policy.

This Title contains provisions on **movement of persons, including on readmission, on visa facilitation** and on the gradual steps towards a visa-free regime in due course (provided that relevant conditions for well-managed and secure mobility are in place).

Treatment and **mobility of workers** are also covered, as is a commitment to further development of judicial co-operation in civil and criminal matters - making full use of relevant international and bilateral instruments.

**Sector cooperation:** the Association Agreement foresees a wide range of sector cooperation, focusing on support to core reforms, economic recovery and growth, governance and sector co-operation in more than 30 areas, such as:

- energy,
- transport,
- environment protection,
- industrial and small and medium enterprise cooperation,
- social development and protection,
- equal rights,
- consumer protection,
- education,
- training and youth,
- cultural cooperation.

In all of these areas, enhanced co-operation starts from the basis of current frameworks, both bilateral and multilateral, with the aim of more systematic dialogue and exchange of information and good practice. Key to the sectoral co-operation chapters is a **comprehensive menu of regulatory approximation** set out in annexes to the Agreement. Specific schedules for transposition and implementation by Ukraine of selected parts of the EU acquis will provide a focus for ongoing co-operation, and will form the core of Ukraine's domestic reform and modernization agenda.

**Institutional framework:** the Agreement includes an updated institutional framework encompassing co-operation and dialogue fora from the Summit level down the level of technical subcommittees. Specific decision-making roles are foreseen for an Association Council, and by delegation for an Association Committee, which may also meet in a specific configuration to address trade issues.

**Fora for civil society,** notably the representative organisations for social partners, trade-unions and employers, and parliamentary co-operation are also foreseen. It also includes provisions on monitoring, fulfilment of obligations and dispute settlement (including separate provisions for trade-related issues).

**BUDGETARY IMPLICATION:** the proposal has no implication for the Union budget.