

УДК 339.9(477)

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THE EU PROJECTS AND INSTITUTIONAL CHANGES IN UKRAINE

This article discusses the involvement of the European Union in Ukraine. It examines an institutional basis and results of projects between the Union and actors on the recipient side, both at governmental and non-governmental levels. A special attention is given to the ENP and DCFTA framework. Finally, the paper offers some practical recommendations on how to raise the effectiveness of the EU policies in Ukraine.

Key words: *institutional development, policy changes, EU projects in Ukraine, ENP, DCFTA.*

Identifying the problem

Institutional changes are a long process, which requires a careful consideration of domestic starting conditions. This process may speed up with the external help and involvement of more advanced partners. Throughout more than fifteen years many international actors including the European Union and its separate bodies have been attempting to facilitate the institutional transformation of Ukraine, both at government and societal levels. With billions of euros allocated to improving transparency, fighting corruption and awakening active social participation, the effectiveness of these efforts remains highly questionable. The purpose of this article, therefore, is to provide an analysis of effectiveness of the EU involvement in Ukraine and seek to answer the following questions:

– What causes and factors make the EU involvement in Ukraine not effective enough?

– What and how must change in the EU approach to allow for an institutional shift in Ukraine?

Literature Review

The issue of the European Integration and Institutional changes is being widely discussed. Yet, the emphasis has been often put on the aggregate level of analysis – Gawrich

et al. [10], and historical review (Kuzio, Taras) [16]. Also, the Institute of Economic Research and political Consultations prepared a report on the economic effects of the Association Agreement [17], yet the analysis of the exact projects in the framework of the ENP / DCFTA is virtually lacking. At the same time, looking inside the framework agreed could enlarge our understanding of the efficiency of EU endeavors here. This necessitates writing the current article and articulates its actuality.

Partnership and Cooperation Agreement

Political dialogue between the EU and Ukraine began with the 1994 (1998) Partnership and Cooperation Agreement (PCA), which focused on the economic relations while leaving democratization issues on the very surface. Institutional framework for political discussions was modest too and was limited to annual meetings between the EU Troika and Ukrainian leadership, and some inter-ministerial consultations. [1] As said, the PCA primarily targeted at the political elites of Ukraine and paid little if any attention to institutional changes on the societal and structural levels¹. The bilateral institutions for both the PCA (as well as those of the later accepted ENP) are the EU–Ukraine Co-operation Council or

¹ The mood that is likely to have prevailed until nowadays.

Co-operation Committees, and formal EU linkages, i.e. the Troika and the Presidency.

The 2005 EU-Ukraine Action Plan sets, among others, the tasks of gradual approximation of Ukrainian legislation, norms and standards with those of the European Union; further reinforcing administrative and judicial capacity and transparent and predictable business conditions, simplified administrative procedures and by the fight against corruption.

The PCA Agreement expired in 2008 and was subsequently substituted by the European Neighborhood Policy Agreement (ENPA) within the Eastern Partnership. The Eastern Partnership or the EaP is an initiative of the European Union regarding the post-Soviet states of Armenia, Azerbaijan, Belarus², Georgia, Moldova, and Ukraine, intended to provide a platform for discussions on economic cooperation and trade, as well as common border controls, travel agreements, and democracy promotion.

Besides, talks on the Association Agreement with Ukraine started in 2008 and materialized only by March-June 2014. Once ratified by the member states, the Agreement will facilitate trade and economic cooperation as well as legislative normalization. Yet, the dimension of democracy promotion in the Agreement is opaque and lacks a concrete agenda.

Unlike the PCA, the ENP Action Plan (AP) upgraded the scope and intensity of political co-operation and aimed at “strengthening the stability and effectiveness of institutions ... and the rule of law”. Furthermore, the AP envisages several concrete demands and rewards to in Ukraine, but it contains no substantial linkages.

Economic interests often define the promoting agenda of international interests. They can understand them in terms of maximizing ‘aggregate welfare gains’ or minimizing domestic losses from engaging into reforms promotion, not the least for the ruling elites in the actor country [2, pp. 528–530]. Thus, the cost-benefit analysis will determine the nature and degree of

involvement into international practices. In general, until 2015 the following distinct characteristics could portray the EU presence in Ukraine:

- material interests prevail over democratic values, the presence of double standards;
- the lack of the coordinated unanimous policy;
- the lack of visibility of concrete projects;
- rhetoric prevails over concrete actions;
- the status quo prevails over institutional changes;
- “neither stick nor carrot”, i.e. the lack of concrete incentives and enforcement mechanisms for Ukrainian elites to facilitate reforms.

European Neighborhood Policy

Until 2004 two factors defined the EU involvement in Ukraine: secure border controls and gas supplies, as well as the “Russia-first” policy [3]. Both Russia and Ukraine have been mainly the material bases for the EU, yet a) Russia’s economy has been much bigger, and b) Russia could provide a strategically more important resource – energy.

Unfortunately for Ukrainians, many EU members still consider(ed?) Ukraine as the Russian sphere of influence, which also fits perfectly into the realist explanation on security interests. Europeans have been wary (and not in vain) that democratic changes in Ukraine would undermine the status quo, and would put the settled relations into uncertainty. Yet, ten years later this outcome would be marking the shifts of the century in the three-player relationships, where the EU would again show lack of determinacy.

The EU is far from being a homogenous entity, and an economic agenda is different in EU member states. While the Eastern members like Poland and the Baltic states have been advocating for the deeper integration with Ukraine, so far as to even offer her the membership perspective, the Western European countries such as France

² Excluded from the ENP due to political reasons and greater reintegration with Russia

and Germany have been wary about this. The two countries also have huge investments and economic interests in Russia, making it the first priority³. Further, Ukraine's interests to decrease its dependence on the Russian gas conflict with the EU's interests to have Ukraine as a bridge between Brussels and Moscow and not as a source of conflict. Finally, the EU countries, especially in Western Europe, do not want to depend solely on the United States, despite a substantial amount of cooperation and trade going on. Such attitude substantially limits any positive intentions to advocate for institutional changes and promote democratic values in Ukraine. We claim that it is not only a limited receptiveness of the Ukrainian elites, which aggravates the situation, but also the EU's quite limited scope of involvement.

Speaking in terms of feasible actions, we will discuss the European involvement with regard to the European Neighborhood Policy (ENP) and the Union's response to dramatic changes in Ukraine between 2004 and 2016.

Between 2007 and 2016, some 35 ENP projects in which Ukraine took part, were completed. The majority of these projects emphasized the technical cooperation (air and water management, energy efficiency), border controls, and education (TEMPUS, Erasmus+), while literally leaving out any

institutional changes. Another 41 project [4], of which Ukraine is a part, are still running. These are the projects that aim to bring about some formal institutional changes in Ukraine. Most of them belong to the EaP framework, yet some have become the part of the Association Agreement with the EU signed in 2014.

1. TWINNING (2004 – present) & SIGMA (2008–2013). Twinning concentrates on the transposition, implementation and enforcement of the EU legislation (the Unionacquis), while Sigma – on strengthening public management in areas such as administrative reform, public procurement, public sector ethics, anti-corruption, and external and internal financial control.

There is no chance to evaluate the effectiveness of the Twinning projects before 2012 due to the lack of the open-access information. In 2012, the declared achievements of the project in Ukraine was a contribution to the national accounts statistics upgrade, while in 2013 the report says virtually nothing about concrete actions undertaken throughout the year. The results of the Sigma projects that account for €15 million between 2008 and 2012, are presented in Table 1. The areas with the most attention in Ukraine were legal framework, security and justice, but the extent was quite limited.

Table 1

Sigma Actions per Neighborhood Country in 2008–2012

Name / Country	Legal Framework, civil service	Financial Control and External Audit	Public Procurement	Policy Making
Algeria	1	1	–	–
Armenia	3	4	4	2
Azerbaijan	1	1	3	–
Egypt	6	–	–	6
Georgia	5	2	1	1
Jordan	2	3	–	3
Lebanon	2	–	2	–
Moldova	4	1	1	–
Morocco	10	2	1	1
Tunisia	7	1	1	–
Ukraine	3	2	2	1

Source: Sigma Annual report 2012

³ Looking ahead it is important to say that even despite the contemporary crisis, Germany and France are essentially against the current policies of Vladimir Putin, and not against the Russia's economy and resources.

2. EAST INVEST (2010–2019) and EASTERN PARTNERSHIP SME FINANCE FACILITY (2010–2019). EAST INVEST is a regional investment and trade assistance project for the economic development under the ENP. The program aims at strengthening public-private dialogue through integrating SMEs into the networking mechanisms, facilitating exchange of best practices and technology transfer. The program budget is €13,5 million (for East Invest I and East Invest II). In practice, however the scope of reach is quite limited and does not affect any formal institutional level. The Program organizes roadshows, seminars and training as well as conferences and study visits to the EU countries [5].

3. TACIS/EIDHR is the European Instrument for Democracy and Human Rights. According to the European Commission, about 15 micro-projects have completed in 13 regions of Ukraine by 2006. All of the micro-projects were in line with at least one of the EIDHR priorities as follows: improving access to justice – 9 projects (60%); human rights monitoring, reporting and advocacy – 14 projects (93%); improving rule of law and enhancing legal protection of human rights – 6 projects (40%). The projects were targeted at: NGOs – 10 projects (67%); Regional and local state administrations – 8 projects (53%); Relevant state institutions – 9 projects (60%); Mass media – 4 projects (27%); Judges – 2 projects (13%); Education specialists – 3 projects (20%) and Vulnerable and disadvantaged people and families – 9 projects (60%). [6] The overall finance between 1999 and 2006 was €5,95 million for Ukrainian NGOs. When assessing the effectiveness of these projects many problems revealed, including the lack of communication between the projects' staff and the EC Delegation, and the enormous time needed to hand the information to the EC Delegation Project Managers. Apart from that, there was an absence of regular monitoring/evaluation visits and the lack of synergy between EIDHR micro- and macro projects. In other words, there has been a mutual shortage of interest and involvement from both sides, aggravated

by a high degree of corruption and virtually absent accountability on behalf of the recipient side. Furthermore, some recipient NGOs in Ukraine view external financing as a means for personal enrichment only, for they never planned to fulfil the initially declared purposes. In addition, despite the nominally convincing figures the financing is not appropriate yet. Still another problem is an essential lack of awareness about the mere existence of these projects among the public in Ukraine. In this way, such a prevailing lack of interest and accountability not only undermine democratic efforts of the Union, but also create additional opportunities to steal money in the absence of public control and transparency.

4. ERASMUS MUNDUS/ERASMUS+, and TEMPUS. Erasmus projects aim to facilitate educational and scientific exchange in recipient countries. The overall financing of the Erasmus Mundus I for the third countries exceeded €230 million during 2004–2008. Yet in Ukraine, financing was quite moderate, with only 130 Ukrainian students and 27 staff members receiving scholarships for study and scientific research. It is also important to say that the geography of Ukrainian universities for that time was very limited and did not exceed 7 universities.

Erasmus Mundus II (2009–2013) substantially increased its scope. The number of higher education institutions was constantly increasing, reaching 25 Ukrainian universities joining the Program in 2013. During this time, some 362 Ukrainian students and scholars received mobility grants. Additionally, the EU also gave partnership grants for concrete education projects like ISEKI_MUNDUS I and II, focusing on food safety promotion [7].

Signing the EU-Ukraine Association Agreement in 2014 marked a new wave of cooperation in education. The new restructured Erasmus+ Program gave its priority to Ukraine, with 1772 (1130 students and 642 academic staff) participants from 127 Ukrainian higher education institutions, and 382 (136 students plus 246 academic staff) persons from the EU took part in academic exchange in 2015 [8]. In 2016, this number

slightly changed to 1583 Ukrainians (840 students and 743 staff) and 637 Europeans (176 students and 461 staff).

Since 2014, there are some 35 Jean Monnet projects that focus on different aspects of the European studies and values, promoting teaching, research, and debate. The overall budget for these projects is about €814,000 [9; [10, p. 12].

TEMPUS is another EU initiative aiming to upgrade education in partner states of Eastern Europe, Central Asia, the Western Balkans, and the Mediterranean region. Unlike Erasmus, Tempus focuses on modernizing the curricula, working programs and integration of education with society. Ukraine participated in four phases of the Program since the beginning in 1993 and received an overall €85 million during this time, completing about 300 projects, plus additional 100 research scholarships for individuals [11].

From the given information, the main area where the ENP could potentially structurally change the institutional framework in society is education. However, tracking exactly the effectiveness of intangible services like education might be not possible. Moreover, for the information for most projects in TEMPUS and ERASMUS is limited, it might be hard to provide an exact evaluation. At the same time, I have good reasons to believe that this educational and intercultural exchange definitely has its fruits, and a significantly increased number of students and higher education institutions is a sign of visible progress. Furthermore, TEMPUS positively contributed to the Bologna process of Ukraine and establishing a formal three stage education, yet given local informal institutions and historical heritage, in the light of Ukraine not complying with Bologna reporting system, this contribution has been undermined.

Association Agreement with the EU

Having subsequently initiated the Revolution of Dignity in Ukraine in 2013, the Agreement was signed by the new leadership in Ukraine in 2014. The Agreement foresees not only a gradual removal of restrictions to trade in goods and services, but facilitation of free capital movement over the period of 10

years. Signing the Agreement along with the mass expression of public will triggered the agenda in economic and political dimensions.

Economic area. The Agreement facilitates bilateral trade between the Parties. Notably, the deal aims to remove EU import duties on 94,7% of industrial goods and 83,4% of agricultural goods from Ukraine. Yet, Annex I-A and I-B introduce numerous quotas for exports and imports for Ukraine. There are about 40 positions, regulated by quotas, especially in agriculture – the sector with the biggest potential for Ukraine's export expansion. Notably, only some 400 thousand tons of corn, increasing it to 650 thousand tons during next five years, which is not more than 10% of the total current volume of Ukrainian exports. Ukraine produces about 1,2 million tons of chicken meat per year, only 16 thousand tons of which is duty-free per annum, in addition to 20 thousand of duty-free imports. As of today, quotas (on import license AGRIM) have already been reached for maize (400 thousand tons) and quarterly quota for the supply of poultry meat. Also, 98% of the quota used for the supply of wheat (950 tons) and 90% – barley (total – 250 thousand tons) [12]. Yet, the EU promises to increase the current quotas for some agricultural products, in particular, for corn, wheat, honey, cereals, processed tomatoes, in total on \$195,950,000 [13].

At the same time, Ukrainian raw materials (other than agriculture) including ores, already enjoy almost absent restrictions, thus they will not specifically benefit from the Agreement. Thus, reportedly the main potential export beneficiaries will not experience substantial benefits out of the deal. Therefore, seems that the whole Agreement, from the economic viewpoint is more of symbolic, rather than actual nature. By saying that I mean no that there is no potential of the institutional and technological upgrade in the long run. On the contrary, the Agreement offers numerous possibilities of the harmonization of Ukrainian legislature, but the outcome will depend on the political will to provide for its enforcement.

Political area. Title VII of the Agreement outlines the institutional framework of

cooperation between the Parties. Specifically, the highest level of political dialogue is the annual Summit and ministerial meetings within the Association Council. The Council has the power of binding decisions as well as policy recommendations making. Also, the Association Committee is responsible for adopting the decisions of the Council. Finally, there is a Civil Society Platform, consisting of the representatives from the European Economic and Social Committee (EESC) on the one hand, and delegates of Ukrainian civil society on the other side. Its powers are advisory only, and its members may freely exchange their views on the issues in question [14].

In the framework of the current deeper integration, some other institutions emerged in Ukraine. These essentially concentrate on fighting corruption and include the National Anti-Corruption Bureau (NABU), the National Agency for Prevention of Corruption (NAPC), while two more bodies, namely the new State Bureau of Investigation (SBI) and a new High Anti-Corruption Court are still outstanding. The agencies started their work, although the speed and the scope is currently quite limited. The biggest tangible achievement is Ukraine's new electronic asset declaration system valid of September 2016. It aims to increase transparency and curb corruption. Currently over 100,000 declarations were already submitted. As good as it may seem, this system still allowed the majority of assets held in offshores and foreign banks to be unregistered. Therefore, its scope is rather limited.

By and large, joining the Association with the EU allowed to attract substantial financial support since 2014. In particular, EU has provided a support package in the form of loans amounting to EUR 3,4 billion, of which EUR 2,2 billion have been disbursed. The focus for 2015/16 has been decentralization (EUR 100 million), economic development (EUR 90 million), anti-corruption (EUR 15 million), public administration reform (EUR 104 million) and rule of law (EUR 52,5 million plus Technical Cooperation Facility

EUR 29,5 million), as well migration management (EUR 28 million) [15, p. 3]. Support related to the conflict through the Instrument contributing to Stability and Peace (IcSP) amounted to EUR 73,7 million since 2014. In 2015 and 2016 the Commission humanitarian aid department allocated a total of EUR 54,8 million, which was reinforced by contributions from Member States⁴.

Apart from that, the EU representation in Ukraine started to actively engage in human resource policy in Ukraine since 2015, facilitating the hiring of highly qualified professionals for various bodies at Ukrainian government, including the Office of Prime Minister of Ukraine. The effectiveness of these measures is yet to be seen, for it is too early to make any conclusions on this account.

Did the European Union fail in Ukraine?

Having analyzed the EU presence in Ukraine, one can definitely see a limited success of the EU involvement and a lot of space for improvement. Institutional changes are difficult to achieve, for they lie not only on the procedural level of the law-makers, but also in the people's minds. On the macro-level, institutional framework of the EU-Ukraine cooperation has been historically narrowed to annual meetings on the ministerial and Committee levels, and focused primarily on the technical issues, common border control and trade. On the one hand there is the EU's limited interest in promoting the bottom-up changes, security preciousness about Russia and domestic economic interests coupled with the lack of incentives for the perspective EU membership of Ukraine. On the other hand, we have low appreciation of the top-down approach by the political and economic elites in Ukraine, as well as the evident lack of incentives (like the EU membership) to facilitate institutional changes. Such a perception is aggravated by the disappointment of Ukrainian public by the EU response onto the Russian aggression.

The Association Agreement of 2014 deepens the cooperation between the parties,

⁴ Ibid.

yet its most valuable part, i.e. the legal harmonization and its law enforcement in Ukraine, yet remains highly questionable, and terms – unidentified.

At the same time, a more social aspect of cooperation, i.e. bottom-up approach, met significant obstacles on both sides, including the lack of common interest and accountability, lack of understanding of local conditions and informal institutions, which made corruption and money laundering possible. A possible exception could make education area, where you can see at least quantitative positive dynamics over the studied period. Another issue revealed in the course of this research, is the lack of transparency and scattered information. It is really difficult to collect sufficient information on the completed/-ing projects, for the information on these a) is vastly scattered in many places and websites, and b) lacks sufficient reports on what exactly was done in those projects. Yet another difficulty that I encountered is the difficulty to assess exactly and correlate the EU input in the current reform agenda and its success, for there are many joint projects with other organizations like the *Community Based Approach to Local Development Project*, run together with the UNDP.

Therefore, immediate improvements could start in the areas highlighted above. Because the grand changes like the EU membership are not on the table in the mid-term perspective, here I will focus more on the micro level changes. In this respect, the key areas of the immediate improvement are education, accountability and the rule of law. It is often that the EU does possess explicit knowledge about the existence of NGOs and public activists, and activists do not know how to approach the “right cell in the chamber

of the European bureaucracy” in order to receive financing. Neither do EU Officers know the local conditions to a sufficient extent. This problem appeared, not in the last turn, due to language barriers regardless of how banal it may sound. Therefore, a substantial advancing of the English skills among Ukrainians is one of the first steps. Secondly, education programs should be further supported, with the scholarship database for young Ukrainians who want to study and conduct research expanding. An immediate measure could be the increased quotas for ERASMUS+ for Ukrainians.

As for accountability, I strongly recommend improving the monitoring and reporting over the progress of the projects. Not only listing of what they targeted is required, but a more detailed description on the progress, and the impact achieved. Realizing this would require the EU officers at places to understand better the local conditions, and control of the distributed finance. Yet, without a “public eye” the result of such a measure could be rather limited.

The current training seminars appear to have lived themselves out. The first reason because they are often targeted at the local executives, is people who belong to the old system and who attend them just formally, for a tick. The target audience should be activists and young people, who have inspiration to bring changes and who yet temporarily lack experience and proper knowledge. Moreover, most importantly, a lot of work has to be done in the area of marketing of the projects and easy access to the information over the funds. In this respect, the umbrella organizations like the USAID have a comparative advantage and may provide a good example of “everything in one place”.

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У статті розглядається залучення Європейського Союзу до реформ в Україні. Аналізується інституційна основа та результати спільних проектів між ЄС та акторами приймаючої сторони як на урядовому, так і неурядовому рівнях. Особливу увагу приділено Східному партнерству й ЗВТ. Пропонуються деякі практичні рекомендації щодо підвищення ефективності політики Європейського Союзу в Україні.

Ключові слова: *інституційний розвиток, зміни в політиці, проекти ЄС в Україні, ЄПС, ЗВТ.*

В статье рассматривается вовлеченность Европейского союза в реформы в Украине. Анализируется институциональная основа и результаты совместных проектов между ЕС и субъектами принимающей стороны как на правительственном, так и неправительственном уровнях. Особое внимание уделяется Восточному партнерству и ЗСТ. Предлагаются практические рекомендации того, как повысить эффективность политики ЕС в Украине.

Ключевые слова: *институциональное развитие, изменения в политике, проекты ЕС в Украине, ЕПС, ЗСТ.*

Одержано 09.10.2016.