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Implications of the Association Agreement for Public Administration in Ukraine

The Vilnius Summit (28–29 November 2013) did not result in signing the Association Agreement (AA), but Ukraine still has all the reasons to go along the European way.

The aim of the research is to address the core issues of AA implications for public administration in Ukraine; to show that the impact of Europeanization will be deepening and widening once the AA is signed; to provide evidence that maximization of benefits for society and business would require more effective public administration with internal policy co-ordination and implementation framework, monitored centrally and implemented at national and regional levels of executive power. The main method of the research is the dialectical method which allows for analyzing the subject issue based on its most essential characteristics.

Experiences of successful Europeanization of public administration in the new EU Member States are outlined, where political priority of EU integration, capability for coordinated effort and partnership instead of individual ambitions of institutions and sustainability of administrative systems were critical to the success.

It is concluded that the AA opens up a great opportunity for Ukraine, but its implementation will depend on issues as political commitment, existence of comprehensive development strategy, public administration capacity for reforms and institution building, education and sustainability of human resources, anti-corruption measures, availability of financial resources and effective usage of foreign technical assistance and strength of nongovernmental sector for professional dialogue and involvement in policy process with the Government.

Keywords: Association Agreement, public administration, Europeanization, co-ordination, integration, partnership, sustainability, political commitment, development strategy, technical assistance.

Introduction. Signing and implementation of Association Agreement (AA) aims at deepening Ukraine's political association and economic integration with the EU. The objective of implementation of the AA and Deep and Comprehensive Free Trade Agreement (DCFTA) is to increase the welfare of Ukraine and its citizens.

In the long run, it has been estimated [1] that the Ukraine – EU DCFTA alone will result in GDP increase in Ukraine by 5% and overall welfare gain to the economy and its citizens of 12% [2]. In terms of economic indicators, exports to the EU would rise by an estimated 6.3%, imports of cheaper EU goods would increase by 5.8% and average wages in Ukraine would rise by 5.5%. Among the main benefits, which Ukraine could derive from the AA, would be the appearance of new markets, demonopolization, rise of effectiveness, increase of supply of goods and services. Ukraine could become an attractive place for investments. For the broader society travelling might become much easier – opening of new markets; cheaper prices for travel services. Ukraine would be more accessible for foreign tourists.

However, these benefits would not accrue automatically. It would require that Ukraine adopts a broad range of the EU *acquis* over a long period (up to 10 years). Therefore, it would be necessary to develop an effective implementation framework which requires setting an overall policy objectives at a political (strategic) level, monitored centrally and implemented at national and regional levels. At the political level there

would be needed greater cooperation and coordination between various government departments of Ukraine and the EU institutions and member state governments and, between the Ukrainian and European Parliaments. Economic integration would be fostered mainly through the implementation of the DCFTA which requires the adoption by Ukraine much of EU business law and regulation, particularly in the fields of technical regulation, sanitary and phyto-sanitary measures, public procurement, trade facilitation, intellectual property, competition policy and capital controls. As a result, economic aims of the DCFTA and broader AA would not be only creation of a free trade area between the two parties, but an anchor for the broader reform process in Ukraine, introducing greater competition and higher transparency.

The AA between Ukraine and the EU could therefore be understood as a major anchor to support Ukraine's own reform agenda. Once implemented, the AA would lead to a further intensification of relations between Ukraine and the EU. Government would require efficient co-ordination on political and operation levels and effective public administration to achieve the desired outcomes.

However, Vilnius Summit (28–29 November 2013) did not result in signing of the AA, but Ukraine still has all the reasons to go along the European way. **Hence, the objective of the paper is to demonstrate that impact of Europeanization is deepening and widening once the AA is signed and would require Ukraine's strategic and co-ordinated approach to maximize the benefits for society through developing more effective public administration and internal policy co-ordination mechanisms.**

1. Defining Europeanization

The process of European integration has raised grounds and many debates in contemporary European studies regarding very complex process determined as "*Europeanization*" – the process of structural change, variously affecting actors and institutions, ideas and interests and response to EU policies.

Europeanization carries the idea that European integration has become so deep in terms of its influence, therefore making purely domestic processes as a part of wider-European level development. This also means that, in terms of breadth, states that are not EU members are also adopting the same processes. It implies a convergence in the way things are done across Europe. Europeanization should be distinguished within the study of European integration, which in the academic literature refers mainly to efforts to explain institution-building, policy integration or policy outputs at the European level. **The study of Europeanization in turn aims to explain the impact of European integration on domestic political and economic systems.**

If we look at the way the concept has been defined by those writing about the Europeanization, we can see that there is a number of different interpretations:

- Thomas Risse, Maria Green Cowles and James Caporaso define Europeanization as *'the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem solving that formalize interactions among actors, and of policy networks specializing in the creation of authoritative European rules'* [3, p. 3].
- Helen Wallace argues that Europeanization is *'the development and sustaining of systematic European arrangements to manage cross-border connections, such that a European dimension becomes an embedded feature which frames politics and policy within the European states'* [4, p. 370].
- Robert Ladrech defines Europeanization as *'an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making'* [5, p. 6; pp. 3–7; 7, p. 4].
- Claudio Radaelli defines Europeanization as *'processes of (a) construction (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies'* [8, p. 4; 6, p. 17; 9, pp. 3–4; 10, p. 69].

One can see that Risse is looking primarily at the European (by that meaning EU) level whereas Ladrech is explicitly referring to national (or domestic) levels, and Wallace and Radaelli seem to suggest that we will find Europeanization at both domestic and "European" levels. So we have three different approaches. One approach sees **Europeanization as an international process (EU level) phenomenon. Other sees it as a domestic phenomenon (as a consequence of EU processes) and the last one sees it as a phenomenon at both domestic and international levels.**

With development and deepening of EU and impact on the related state policies, Europeanization of public administration demands the country to be an active recipient of EU policies and programmes simultaneously interacting in creation of results in Brussels and managing outputs towards national institutions and society. Therefore principal policy issue is successful organization of Europeanization (membership or association) on national level and reaction to Europeanization effects on particular internal policies.

Government and public administration is the driver of the political process with Europe and adds substantial value to building wider comprehension and interaction on Europeanization process in the state and society particularly. European policy formation therefore is integrated dimension of the national policy process.

The change in understanding of foreign and internal policy in European cooperation happens very dynamically, therefore demanding permanent adjustment of the public administration system. As more flexible is the state as more guaranteed is the possibility to develop link between interests of society and decision making on the EU level, keeping legitimacy and interest of the state.

Character of management of EU related issues on national level basically are influenced by changes in policy and regime in the EU, changes of the system character on the national level and political changes on the level of national government. Europeanization also establishes impact towards availability of the human resources (political culture/administrative structures and impact of the size of state towards balanced protection of the interests), budget opportunities, professional wishes, interests and opportunities to defend the national interest with the EU.

2. Lessons learnt from the new EU Member States experience

The countries experiences allow identifying a number of factors that are critical for successful Europeanization of public administration:

- **Political priority** – a highly important factor and precondition for Europeanization that should be regarded to prime minister and the parliament. This factor was present during all the phase of accession to EU by joint consensus to undertake the necessary efforts, in some stages less and some stages more active and successful. As a result, it has allowed facilitating Europeanization process of internal policies, so it could be possible for the country to join EU.
- **Functioning model of EU coordination** – existence of clear vertical and horizontal coordination and effective working methods and active involvement of the partners both on administration and public level. Limitation of bureaucracy and formality are important factors for making coordination operational.
- **Coordination and working in partnership with a common goal**, leaving aside the individual ambitions of institutions, may be **extremely time and resource consuming but effective.**
- **Relation to Public administration reform** – co-ordination of public administration reform to cope with impacts of Europeanization and develop modern civil service able to act in the European administrative space.
- **Quick information exchange** – existence of operational networks with as much as possible limited bureaucracy able to react fast to the various communications from EU.
- **Comprehensive system of planning, coordination and monitoring of the process** – capacity to be able to undertake approximation process of national law with EU law, implement the legislation and ensure also later enforcement.

- **Linking process with State budget possibilities and co-ordination of foreign technical assistance** – ability to allocate the financial resources for the most important priorities in the process of Europeanization and use foreign technical assistance where it is necessary.
- **Communication and exchange of best (or worst) practices** – there is a vast amount of information moving around that all the stakeholders should know, so well-working and effective information flows should be developed (both formal and informal).
- **Capability to unite theory with the practice** – active methodological usage of new knowledge and understanding of the process and wherever it is necessary supplementing it with training.

Sustainability of administrative systems and set-ups created and developed already for the needs of AA implementation should be coherent and easily adaptable to the needs in the later. **Consistency** and **continuation** are valuable elements in the functioning of any administration and they should be present to avoid confusion and waste of often very limited resources and time. Decision-making and coordination process must ensure coherence in the overall government's policy for getting benefits. Effective coordination can be achieved by establishing effectively functioning working methods to ensure high quality from the beginning, development of an operational network of officials from the ministries accustomed to active informal communication through personal contacts across institutions and building substantial knowledge and understanding of the EU matters both with officials and politicians that quickly allows formulate coherent and well-argued positions in communications with the EU.

With deepening of relations with the EU, Ukraine would have to regard it more as internal affairs rather than foreign affairs. It would require larger involvement of the head of government in EU business and shifting coordination of EU affairs closer to the centre of government, the "normal" national procedures for decision making but also respect the role of President's Administration in the process.

3. Challenges to Public Administration for the AA implementation

The AA would give a rise to a further intensification of relations between Ukraine and the EU and increased obligations. As soon as the AA is signed, the Government would have to put in place systems, procedures and capacities for implementation of commitments. Therefore it would be vital that the terms of the new agreement are considered as single and integral part of the mainstream national reform rather than looked upon as stand-alone elements affecting different parts of the economy.

a. Implications of main administrative structures required for Institutional development and AA Implementation program

Ukraine does not have a defined EU accession perspective and should carefully analyse and filter their national policy objectives within the context of specific areas and define the extent to which each area is beneficial to national development priorities comparing to countries in the EU accession mode that are constrained by more obligations and less manoeuvrability (smaller policy space).

Appropriate instruments should be carefully selected to ensure a close link with national interests and mainstream government agenda for effective AA implementation in the future. AA implementation would have elements that affect all parts of the economy, political structures and wider society. From a strategic point of view, as Ukraine progresses in the AA implementation, almost all sectors of government would have to face policy choices where association with the EU cannot be seen as a separate activity. The way how the mainstream government business is run has direct impact also to Ukraine's preparation for the AA implementation. As the association process progresses, almost all parts of government would face policy and reform choices that cannot be seen in isolation from the national policy formulation process. Already today, most policy and budgetary decisions at a sector level have to include, if not driven by, association with the EU. This is particularly evident in such sectors as justice and home affairs, agriculture, trade, energy, environment and others. Reforms and policy choices in those areas already are about implementing EU requirements.

Effective AA implementation would require the development of a single framework for AA implementation planning, implementation and monitoring for legal, institutional, capacity, communication, financial needs and technical assistance measures. Each responsible Government institution would be required to take decisions on the application of strategic planning and monitoring tools for implementation of their component of the AA Implementation Programme.

The structure of the AA Implementation Programme should follow closely the viable coordination and implementation structures designed for AA implementation. These would then provide specific work programmes and parts of the action matrix for each element of the coordination structure, clearly delineating responsibilities for coordination, monitoring and management of the process. Many measures and actions that would be included in the AA Implementation Programme should align with the Comprehensive Economic Reforms Program introduced by the President of Ukraine. Thus, there should be an explicit link not only between AA and AA Implementation Program, but also between the national reform and AA implementation in all other national documents. For instance, the Comprehensive Economic Reforms Program for 2010–2014 “should reference” particular priority areas of the AA common to both the EU and Ukraine.

The AA would also lead to implications to main administrative structures in public administration, where the EC Guide to the Main Administrative Structures required for implementing the acquis could be used for guidance in preparation and implementation of relevant institutional reforms in public administration [11]. For this reason, the future **comprehensive** AA Implementation Programme should have a common methodological approach to planning, impact assessment and monitoring process and also ensure coherent links between medium – term framework for AA implementation, national and sector strategies, state budget. Long-term commitments in the State budget for particular AA implementation activities should also be foreseen with the introduction of State programs with appropriate financial coverage.

Actions to implement the AA would generally be taken by line ministries, government agencies, and in some instances by private sector. The Ukrainian Parliament would be deeply involved in implementation, as it would be required to adopt considerably increased number of new legislation or changes to existing legislation to fulfil the obligations taken in the AA. This would demand a significant investment by the government in deepening its working relationship with Verkhovna Rada. The judiciary would be required to make judgements on the basis of new legislation approved by parliament and will therefore need training.

The EU would monitor the implementation of the AA closely and regularly report on results. Therefore if Ukraine wishes to integrate deeply with the EU it would be essential to ensure that the agreement is implemented as fully as possible. The experience from the EU New Member States show that for such case one of the most efficient tools is elaboration of Government’s consolidated planning and monitoring framework for national development and priorities for association with the EU or AA Implementation Program. This would increase efficiency and diminish a risk of appearing work streams, parallel monitoring and reporting systems.

b. Financial implications to the State Budget

Ukraine’s Europeanization after signing of the AA would present also a financial challenge. The AA would require Ukraine to progressively implement significant parts of the EU acquis. Success in this harmonisation would bring benefits both to Ukraine and to the EU itself, as the business environment improves and stabilises.

The speed of implementation would depend partly on the availability of finance. The Ukrainian government would have to make the necessary decisions on the prioritisation of the different elements of the acquis and on the overall speed of adjustment. It can however influence the volume of finance which is made available and the timing of that finance.

It is therefore important that the Ukrainian authorities analyse in a serious way costs of some of the transformations, which will be required by the implementation of

the AA. Ukraine in some ways need to undertake impact assessment more generally than the new member states did, because Ukraine is not being offered accession to the EU at present and therefore needs to be more cautious in adjusting to the *acquis*.

The implementation of the EU legislation will prove to be extremely costly. Many investments required to implement the EU legislation might not have a measurable return in the medium or even the long-term. Without an increase in external financing the speed with which Ukraine would be able to implement the *acquis* rather slow. This would mean that deadlines agreed in the AA may not be met, and this in its turn would lead to deterioration in the quality of relations between Ukraine and the EU, which would be in neither's interest. **It would be crucial to find allies amongst the member states, the EU institutions, and non-governmental bodies, which actively support raising financial assistance to the countries of the Eastern Partnership and in particular to Ukraine.**

The cost for Ukraine's integration with the EU would depend on the government's decisions on its desired degree and speed of Europeanization, the actual and precise terms of the AA and the extent of the desire to match European standards in all areas including those which are not part of the *acquis*. Ukraine would be able to choose the methods and the timing to achieve the stated aim in the Agreement. Therefore, speculations on different financial estimates needed for adaptation of economy towards EU standards could not be treated as trustworthy due to absence of reliable methodology for assessment of impact on the State budget [12].

The ultimate quality and extent of the AA implementation would depend obviously on the policies of governments over the next two or three decades. Europeanization may remain at the level agreed in the AA or may go further towards more complete Europeanization with the internal market of the EU. The government would also determine the speed with which this process takes place. The extent and the speed of Europeanization would obviously crucially affect the cost.

Therefore, it is extremely important that the financial impact of the AA implementation measures and the sources of financing to implement those measures would be carefully studied during planning of measures for AA implementation program.

In particular:

Market economy regulation, such as competition policy, control of state aids, intellectual property protection, public procurement, and so on, is usually associated with substantial changes in the way the economy works but as far as the implementation of the policy is concerned the financial cost on the budget of this new regulation is rather small. It consists of institutional changes, some additional training of staff and in some areas a slight increase in staff.

Product *acquis*, that is to say technical regulation, standardisation, rules on quality can be extremely costly to introduce. Much of this cost lands with the private sector because it involves changes in the products produced which involve new investment and change in working practices for businesses. However if the country wishes to enter the internal market in a certain sector, it will be necessary to undertake sector relevant regulation.

Process *acquis*, that is regulation which does not determine the actual character or quality of a product or service, is generally the most costly regulation to implement, and that which puts the greatest burden on the state budget. Typical of this regulation is that concerning the environment, some of the climate change relevant regulation, health and safety at work and social policy.

Implementing the EU's environment *acquis* would be exceedingly costly for Ukraine with its substantial population and very large land area. This enormous cost lead Poland to negotiate extremely long transition periods for implementation of EU directives in the accession treaty signed in 2002.

Derived from that, the Ukrainian government would have to take necessary decisions on further prioritisation of different elements of the national reform and the overall speed of adjustment with the EU legislation. It can influence the volume of finance which is made available and timing of that finance allocation. This in its

turn might lead to slower domestic reform process and deterioration in the quality of relations between Ukraine and the EU.

Based on the Paris Declaration on Aid Effectiveness, attention should also be given to **closer donor coordination**, particularly in the context of preparing and implementing sector-wide support programmes for implementation of the AA Implementation Programme. Therefore, it would be useful if the AA Implementation Programme drafting process would **foresee studying of the cost of implementing the measures** (budgetary impact assessment) not only with a view to assuring their financing but also identify relevant external sources where appropriate (investment by enterprises in Ukraine; foreign grant finance (from the EU and national bilateral sources); foreign loan finance (from the European Investment Bank, the World Bank and its affiliates or the EBRD; occasionally from national bilateral sources) or equity (the EBRD and foreign direct investment).

c. Human resource development needs

Professional and effective public services committed to serve public interest and able to undertake responsibilities and obligations which come with Europeanization, is a prerequisite for a well run administration, as well as for functioning of the state and society. Public administration should ensure legality, fairness, reliability, impartiality and predictability of the decisions of the administration. The professional civil service should be non-politicized and be built following the same scope and standards across the whole civil service and have independent judicial control. The civil service should be developed on merit-based system for recruitment, promotion, profiles of professional competence and carrier path development. Remuneration scheme should be transparent and fair. The civil service managers should have adequate controls to adopt specific rules and take decisions on relevant matters but civil servants should be protected against unfair dismissal.

Systematic and sustainable training is also one of the main preconditions to develop a civil service based on modern administration principles and high quality professional skills. Public administration should be able to achieve the following objectives to have a functional professional development system of civil servants and public employees on EU issues:

- Envisaged immediate, mid-term and long-term objectives for the development of EU related training/re-training and professional development;
- Defined training priorities and curriculum by different types and levels of the administration guaranteeing relevant and timely training in EU issues according to the developments in the Europeanization process of the states (including building up local training capacity through training of trainers program);
- Defined guidelines for the management and co-ordination of the EU training/re-training and professional development and main principles for the delivery, funding of the EU training/re-training and professional development;
- Elaborated relevant training methods for the EU training/re-training and professional.

In the case of Ukraine, success of the future AA implementation directly relates also to efficient implementation of the State Target Program of Civil Service Development until 2016 (human resource management mechanisms and institutional capacity in the civil service system) and the State program of training, training and professional development in European Integration and Euro-Atlantic Cooperation of Ukraine (2008–2015).

d. Overall co-ordination mechanism for implementation

Effective implementation of the AA would be the core determinant of the degree of integration with the EU. The implementation of Ukraine's AA would require also a high level of coordination in the Ukrainian government. The experience of the new member states in Central and Eastern Europe is therefore valuable, even though accession is further away for Ukraine. In all of these countries a more or less strong form of policy coordination was established based on an elaborated single national development programme which was managed by the coordinating authority.

It would be advised to consider a possibility of establishing a new dedicated Central Executive Body under the direct authority of Prime Minister as a projected Head of the Ukrainian part of the EU-Ukraine Council and Member of Government. This body would ensure analytical, information support, as well as formulation of impartial recommendations for well-informed, quality decision making in Government on state policy for the AA implementation. It would also co-ordinate the AA implementation, aiming to ensure development, updating, and monitoring of the AA implementation program.

If established, this coordination body would use the AA implementation program as its main framework for the work, alongside with co-operation with secretariats of the Ukrainian Part of Bilateral bodies, government institutions performing horizontal co-ordination functions, President's auxiliary bodies (Presidents Administration and Economic Reforms Co-ordination Centre) and Verkhovna Rada (the Committee for the European Integration and other committees).

Conclusions. The experience of public administration acquired during Europeanization allows concluding that the key factors determining success of democratic changes, success of reforms and later also Europeanization of internal policies will be much dependant on such critical factors as political commitment, existence of comprehensive development strategy, public administration capacity enforcing reforms, ability to assess EU impact, lack of necessary education and knowledge, corruption, rotation of human resources in the public administration, legislation and institution building process, readiness of nongovernmental sector for professional dialogue and involvement in policy process, availability of financial resources, effective usage of foreign technical assistance.

The AA is a great opportunity to develop Ukraine better but has also involves heavy obligations and needs for improved public administration to ensure effective implementation of commitments agreed.

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Наслідки Угоди про асоціацію для системи державного управління в Україні

Розглядаються основні питання, пов'язані з Угодою про асоціацію між Україною та ЄС, та її наслідки для системи державного управління в Україні. Показано, що реалізація зобов'язань, взятих Україною в рамках цієї Угоди, залежатиме від низки чинників: політичної волі, наявності комплексної стратегії розвитку і потенціалу державного управління, необхідного для здійснення реформ та інституційного будівництва, антикорупційних заходів, наявності фінансових ресурсів, ефективного використання технічної допомоги тощо.

Ключові слова: *Угода про асоціацію, державне управління, європеїзація, координація, інтеграція, партнерство, стійкість, політична воля, стратегія розвитку, технічна допомога.*

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Последствия Соглашения об ассоциации для системы государственного управления в Украине

Рассматриваются основные вопросы, связанные с Соглашением об ассоциации между Украиной и ЕС, и его последствия для системы государственного управления в Украине. Показано, что реализация Украиной обязательств, принятых в рамках этого Соглашения, будет зависеть от ряда факторов: политической воли, наличия комплексной стратегии развития и потенциала системы государственного управления, необходимого для осуществления реформ и институционального строительства, антикоррупционных мер, наличия финансовых ресурсов, эффективного использования технической помощи и др.

Ключевые слова: *Договор об ассоциации, государственное управление, европеизация, координация, интеграция, партнерство, устойчивость, политическая воля, стратегия развития, техническая помощь.*

