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Viktoriiia Kotlubei

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Abstract

This paper aims to assess and evaluate conditions, which potentially lead to the effective Europeanization of the public administration of Ukraine through Europeanization theories. Henceforth, the impact of the EU and the impact of domestic conditions on the potential Europeanization of public administration will be analyzed via assessment of the Public Administration Reform Strategy through 2021 (PARS). Domestic conditions include the assessment of PARS: its cost and the support from politicians and civil society. EU conditions include the assessment of the instruments the EU uses in its neighborhood and special instruments to support PARS implementation via conditionality: technical assistance, budget support and macro-financial assistance. The study has shown that both domestic and external conditions are interrelated and enhance the effectiveness of public administration Europeanization. Although the impact of the EU has its limits, the conditional support provided to Ukraine is unprecedented as for a non-EU member state. Domestic conditions also have their limits as the successful implementation of PARS is primarily based on a political will and results of the reform are difficult to present to society. However, with all above, alignment with SIGMA principles of public administration as a main approach toward the public administration reform can be considered as a breakthrough.

Abstract

Dieser Beitrag hat das Ziel, die Voraussetzungen durch Europäisierungstheorien darzustellen und einzuschätzen, die potentiell zur Europäisierung vom öffentlichen Dienst in der Ukraine führen werden. Die Studie wird die Schlüsselbedingungen seitens der Ukraine und der EU durch die Reformstrategie des öffentlichen Dienstes bis 2021 analysieren. Unter nationalen Bedingungen versteht man die Einschätzung von PARS: deren Kosten und Unterstützung auf den politischen und zivilgesellschaftlichen Niveaus. Die EU-Bedingungen beinhalten die Einschätzung des Instruments, womit die EU ihre Nachbarschaft zu europäisieren versucht sowie der spezifischen Instrumente, die bei ihrer PARS-Unterstützung eingesetzt werden, und zwar technische Hilfe, Haushaltsunterstützung sowie makrofinanzielle Hilfe. Die Studie zeigt, dass sowohl die nationalen als auch die externen Bedingungen in gegenseitigen Beziehungen stehen und die Effizienz der Europäisierung vom öffentlichen Dienst erhöhen. Obwohl der Einfluss der EU seine Einschränkungen hat, ist die bedingte Unterstützung der Ukraine für ein nicht-EU-Land beispiellos. Nationale Bedingungen haben auch ihre Grenzen, weil die erfolgreiche Implementierung von PARS vor allem vom politischen Willen abhängig ist und die Reformergebnisse schwer präsentierbar für die Gesellschaft sind. Allerdings ist die Anwendung von SIGMA-Prinzipien als Hauptansatz zum öffentlichen Dienst trotzdem als Durchbruch zu bezeichnen.

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List of Abbreviations and Acronyms

AA – Association Agreement

APIAA – Action Plan for the Implementation Association Agreement

CEE – Central and Eastern European countries

DCFTA – Deep and Comprehensive Free Trade Area

EaP – Eastern Partnership

EC – European Commission

ENI – European Neighborhood Instrument

ENP – European Neighborhood Policy

EU – European Union

EU4PAR – Support to Comprehensive Reform of Public Administration in Ukraine

EUROPAF – EU Programme for the Reform of Public Administration and Finances

MTGPAP – Medium-Term Government Priority Action Plan to 2020

NGO – Non-governmental organization

PAR – public administration reform

PARS – Public Administration Reform Strategy through 2021

RSPs – reform staff positions

SCMU – Secretariat of the Cabinet of Ministers of Ukraine

SGU – Support Group for Ukraine

SIGMA – Support for Improvement in Governance and Management

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1. Introduction

This thesis aims to investigate the process of the Europeanization of Ukraine in the context of public administration reform (PAR). The reform has been launched by the Government of Ukraine in 2016 and is supposed to continue until 2021. The latest amendments to the strategy and action plan for public administration reform extended it to 2021 instead of 2020 because many goals from the action plan were either not achieved or postponed. However, this thesis evaluates public administration reform-related events that took place from 2016-2018, as well as a summary of the attempts to reform public administration in Ukraine before 2016.

The Head of the European Union (EU) Mission to Ukraine Hugues Mingarelli defined the progress of Ukraine in the field of reforms implementation agenda as ‘significant’ since 2014 in a 2018 interview.¹ The EU assists in most sectors of political, social and economic life.² Within many other priorities and projects of the EU Mission to Ukraine, the biggest and one of the most challenging is public administration reform. According to Gregor Wiranto, the head of the International Advisory Group, on EU public administration reform in Ukraine as of 2016: “PAR is the mother of all other reforms”.³ Since 2018, Gregor Wiranto is one of the key experts of the EU-funded project EU4PAR.

As mentioned above, the EU supports numerous projects. They are related to the fulfilment of responsibilities taken on by the EU and Ukraine through implementation of the *acquis* as a part of an Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (Association Agreement). One of them is to support an initiative of the government to reform the public sector and governance system: ‘Support to Comprehensive Reform of Public Administration in Ukraine’, where the EU’s contribution is 90 million EUR and support since 2018 depends on the results achieved from the side of the government of Ukraine. Apart from that, the EU funds most PAR-related projects which run in Ukraine and assists with various upcoming issues by providing technical assistance to the reform-related government representatives.

Apart from financial assistance, represented as direct budget support, the EU has a wide net of supporting think tanks and advisors in various projects to sustain further reorientation of the public administration of Ukraine toward Europeanization. Public administration reform, undertaken by the

¹ UNIAN, 23 February 2018: EU Ambassador: if You do not see Reforms in Ukraine – “You are either idiots, or narrow-minded people”, <https://www.unian.net/politics/10018664-posol-es-esli-vy-ne-vidite-reform-v-ukraine-vy-ili-idioty-ili-ogranichenny-lyudi.html> (accessed: 28.05.2018)

² UATV English, 4 February 2018: Hugues Mingarelli on Ukraine-EU Relationships in 2018 [Video file]. Retrieved from <https://www.youtube.com/watch?v=029Yagv5NbY> (accessed 29.05.2018).

³ Ukrinform, 13 April 2018: European View on Public Administration Reform in Ukraine, <https://www.ukrinform.ua/rubric-world/2440802-evropejskij-poglad-na-reformu-derzavnogo-upravlinna-v-ukraini.html>

government, is part of fulfilling the EU good governance requirement in Ukraine and has two directly targeted EU-funded projects: Support to Comprehensive Reform of Public Administration in Ukraine (EU4PAR) and the EU Programme for the Reform of Public Administration and Finances (EUroPAF).⁴ Only the first project aims to support public administration reform and its beneficiary is the Secretariat of the Cabinet of Ministers of Ukraine, which coordinates the reform. Apart from EU assistance, other donors have supported public administration reform in Ukraine indirectly, including EU member states, EU non-governmental organizations as well as international organizations.⁵

Hence, it is notable how much the EU invests in Ukraine since 2016 in the sphere of public administration both financially and technically. Yet it is too early to evaluate the results of the reform itself, but it is possible to define and analyse conditions, which influence the Europeanization of this reform in various ways. As there have been many studies regarding under what conditions EU influence on the third countries institutions⁶ with attention given to Ukraine occurs,⁷ there is no proper evaluation of existing conditions for public administration reform in Ukraine, while it is still in process.

1.1. Public administration of Ukraine

Oligarchs of post-Soviet Ukraine influenced the public administration system and created huge risks for its development: heavily dysfunctional public administration, top-down corruption and public finances used to advance private goals and conflicts of interest at all levels.⁸ Simultaneously, EU deputies highlight that such a system is not only destructive for Ukraine, but it also makes the EU

⁴European Union External Action Service: Delegation of the European Union to Ukraine: EU Programme for the Reform of Public Administration and Finances (EUroPAF), (16 June 2017), [https://eeas.europa.eu/delegations/ukraine_en/28298/EU%20Programme%20for%20the%20Reform%20of%20Public%20Administration%20and%20Finances%20\(EUroPAF\)](https://eeas.europa.eu/delegations/ukraine_en/28298/EU%20Programme%20for%20the%20Reform%20of%20Public%20Administration%20and%20Finances%20(EUroPAF)) (accessed 29.05.2018).

⁵As of the end of 2018, there were 16 in-directly related to PAR projects, sponsored by different donors: SIGMA, Support to strategic communication and awareness raising on Ukraine's public administration reform (INTERNEWS), Support for the implementation of the EU-Ukraine Association Agreement (GFA), Professionals for Reform Support Mechanism (PRSM) Secretariat of the Cabinet of Ministers (SCMU) HRM function development (AGRITeam Canada Consulting LTD), Better Regulation Delivery Office (BRDO) (connected with EU4Business), Civil society monitoring of reforms PRAVO (NGO), Support to implementation of the Concept of Reform Staff Positions (HUDSON UKRAINE), Support to Implementation of Public Administration Reform and Public Financial Management Reform in Ukraine (World Bank), Center for Economic Studies

⁶ Melnykovska, Inna; Schweickert, Rainer (2008): Bottom-up or top-down: What drives the convergence of Ukraine's institutions towards European standards?, *Southeast European and Black Sea Studies*, 8:4, 445-468

⁷ Langbein, Julia; Wolczuk, Kataryna (2012): Convergence without membership? The impact of the European Union in the neighbourhood: evidence from Ukraine, *Journal of European Public Policy*, 19:6, 863-881

⁸ European Court of Auditors: Special Report EU Assistance to Ukraine, p. 14, https://www.eca.europa.eu/Lists/ECADocuments/SR16_32/SR_UKRAINE_EN.pdf (accessed: 28.05.2018)

assistance ineffective as it disappears in the budget ‘holes’ made by oligarchs, and does not serve the development of the country.⁹

Before 2016, Ukraine undertook several attempts to reform its public administration. The biggest reorganization of central executive bodies took place from 2010-2011, with the appearance of a Presidential Law on Optimization of the System of Central Executive Bodies on December 9, 2010,¹⁰ followed by this Law on Central Executive Bodies, which was adopted on March 17, 2011. This law was the first one in the history of the legislation of Ukraine aimed at defining and structuring the functional responsibilities of central executive bodies by introducing their typology: ministries, services, agencies and inspections. This law established that government regulatory functions are separated into the formation and implementation of public policies, where ministries should be central bodies to form and implement corresponding policies; other central executive bodies’ main functions aimed to *provide administrative services, undertake inspections or maintain state-owned enterprises and properties*. Nonetheless, this did not allow for the clear division of functions and as of 2018 ministries perform functions like the management of state-owned enterprises, as well as inspection-related functions and administrative services provision. These functions, with accordance to the Strategy of Public Administration Reform through 2021 should be examined and accordingly eliminated, transferred or delegated to the local level.

In the same year the Law on Access to Public Information was adopted,¹¹ which gave citizens the right to request information from governmental bodies. This law was designed to increase public control over public authorities and their actions, which caused a rise of the Global Competitiveness Index indicator “Transparency” of government policymaking from 116 in 2010 to 65 in 2018.^{12,13} Additionally, most state registries and other public documents came online as of 2016, which increased the transparency of state institutions and their accountability to citizens.

⁹ Economichna Pravda, 5 October 2018: EU Deputies are Outraged that Oligarchs Create Holes in the Budget of Ukraine, and the EU have to Plug the Budget Hole - a Banker, <https://www.epravda.com.ua/news/2018/10/5/641341/> (accessed 15.10.2018)

¹⁰ Verkhovna Rada of Ukraine: Law on Optimization of the System of Central Executive Bodies, <http://zakon.rada.gov.ua/laws/show/1085/2010/ed20101209?lang=en> (accessed 15.10.2018)

¹¹ Verkhovna Rada of Ukraine: Law on Access to Public Information, <https://zakon.rada.gov.ua/laws/show/2939-17/ed20110113?lang=en> (accessed 15.10.2018)

¹² World Economic Forum: The Global Competitiveness Report 2011–2012, http://www3.weforum.org/docs/WEF_GCR_Report_2011-12.pdf (accessed 15.10.2018)

¹³ World Economic Forum: The Global Competitiveness Report 2017–2018, http://www3.weforum.org/docs/GCR2017-2018/03CountryProfiles/Standalone2-pagerprofiles/WEF_GCI_2017_2018_Profile_Ukraine.pdf (accessed 15.10.2018)

In 2012, a law on Administrative Services was adopted,¹⁴ which identified what is considered to be administrative service provided by the government and that any administrative service has to be regulated by law. However, the law on administrative procedure has not been adopted by the parliament as of 2019 and its second draft is only registered on the website of Verkhovna Rada.¹⁵ This means that before 2011-2012, Ukraine had quite an unstructured system of executive bodies and nontransparent relations between citizens and the government.

Public service, which is a part of public administration, has appeared to be weak and insufficient to respond to modern challenges. The outdated Law on Civil Service, which was adopted in 1993¹⁶ (three years prior to the adoption of the Constitution of Ukraine), was in place until 2016. Before adopting the new law in 2016, there was an attempt to reform civil service in 2010, but its adoption was postponed each year due to a lack of finances. Prolongation of the enforcement of the law took place until 2014. However, the dramatic events of 2014 took place and new government took over the post and drafted a new law which was finally adopted in 2016.

Only in 2016 did it become obvious that there is a strong need to reform public administration and public service as a part of it. As shown by the entry into force of the Association agreement (AA) and Deep and Comprehensive Free Trade Area (DCFTA) in 2014, the Ukrainian government showed a clear lack of capacity to implement undertaken commitments because of an insufficient public administration system.¹⁷ *“State capacity refers to the state’s institutional capability to design and carry out a range of public policies that deliver benefits and services to citizens and business”*.¹⁸

There has been research conducted which reflects the effectiveness of the external governance approach toward Ukraine in such spheres as trade, foreign policy and energy,¹⁹ irregular migration,

¹⁴ Verkhovna Rada of Ukraine: Law on Administrative Services, <https://zakon.rada.gov.ua/laws/show/5203-17?lang=en> (accessed 09.07.2019)

¹⁵ Verkhovna Rada of Ukraine: Draft Law on Administrative procedure, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=65307 (accessed 15.07.2019)

¹⁶ Verkhovna Rada of Ukraine: Law on Civil Service, <http://zakon.rada.gov.ua/laws/show/3723-12/ed19931216> (accessed 15.10.2018)

¹⁷ Wolczuk, Kataryna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, Chatham House, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 15.10.2018)

¹⁸ Ibid. 2

¹⁹ Dimitrova, Antoaneta; Dragneva, Rilka (2009): Constraining external governance: interdependence with Russia and the CIS as limits to the EU's rule transfer in the Ukraine, *Journal of European Public Policy*, 16:6, 853-872

border management, visas and organized crime,²⁰ competition, environment, and migration policy.²¹ The red thread running through these studies is the weak administrative management of the government, what makes it extremely difficult and time-consuming to implement any changes even if the political will is in place. As it has been acknowledged by the study of the Association Agreement implementation, Ukraine possesses a combination of inappropriate institutional capacity and adverse socio-legal culture, which leads to optional law implementation and which varies from weak to abusive and from unacquainted to purposeful misuse.²² A low level of law enforcement is directly related to the commencement stages of policymaking, which lacks such important things as public consultations and research-based decision-making.²³ Public administration reform in Ukraine is explicitly focused on capacity building for policy formation within ministries.

The Europeanization of public administration has some differences from other spheres of adaptation of national laws to the EU. As in such spheres as e.g. border control, migration or energy, there are certain EU standards which have to be translated, interpreted and adopted in accordance with an Association agreement. In the case of public administration, there is no best practice applicable to third countries, because of the diversity of systems within the EU and because there is no single system of how government functions within the EU. What is applicable in one country may not work in another because of its institutional traditions. Hence, this is a normative base, created by SIGMA (Support for Improvement in Governance and Management), which has a list of 'must be' things, but it does not assess their quality and does not have descriptions on 'best practices'. The way on how to elaborate better practice in a particular system or how to make more systematically applicable rule in this system depends on national high-level officials.

Therefore, the key EU requirement to public administration reform is to bring more transparency, greater accountability and openness, level of public involvement, new processes, sustainable and predictable policy development, and client-oriented administrative services of the Ukrainian government. This is supported by interviews I conducted with experts who work for the EU-funded projects, Ukrainian government and other projects related to reform. The accountability of the government was outlined as a key element for the effective implementation of the Association

²⁰ Lavenex, Sandra (2004): EU external governance in 'wider Europe', *Journal of European Public Policy*, 11:4, 680-700

²¹ Freyburg, Tina; Lavenex, Sandra; Schimmelfennig, Frank; Skripka, Tatiana and Wetzels, Anne (2011): Democracy promotion through functional cooperation? The case of the European Neighbourhood Policy, *Democratization*, 18:4, 1026-1054

²² EPRS, European Parliamentary Research Service: Association agreements between the EU and Moldova, Georgia and Ukraine European Implementation Assessment, Editor: Anna Zygierewicz Ex-Post Evaluation Unit PE 621.833 – June 2018, p. 163, [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621833/EPRS_STU\(2018\)621833_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621833/EPRS_STU(2018)621833_EN.pdf) (accessed 11.07.2019)

²³ Ibid.

Agreement. According to one of the interviewees, Ukraine does not have a well-developed vision of a system of public administration, neither at the top level (parliament, president, government) nor at the technical level (civil service, ministries, departments).²⁴ The EU attempts to promote its values outside of its borders and they are embedded not only in official institutions and processes, but also in a completely different political culture. Public administration reforms in CEE were different from those, which took place in the old European countries and were characterized as those with a ‘piecemeal approach’, as well as transformation based on a ‘democratization’ wave rather than on pure managerial concepts.²⁵ Ukraine experiences similar issues with its reforms.

1.2. Research question

The research on EU influence and further Europeanization toward third countries has been examined and discussed by many Europeanization theory researchers. Although, the question of Europeanization of national public administration systems in non-EU member states is one of greater interest. Since Ukraine, Moldova and Georgia have signed Association Agreements with the EU, these countries undertook plenty of duties to reform and adapt their national legislation with accordance to the EU acquis. The case of public administration reform in Ukraine is a unprecedented and rather thrilling, as before there was no real programmatic approach toward state building.

The research question of this thesis is:

What Ukrainian and EU conditions lead to the Europeanization of Ukraine within the framework of ongoing public administration reform?

Thus, the following sub-questions will help to investigate the question in a more comprehensive way:

1. What conditions are in place from the EU side to influence the Europeanization of public administration reform in Ukraine?
 - 1.1. Which instruments does the EU use for EaP countries’ Europeanization?
 - 1.2. Is the EU policy of conditionality in place in Ukraine? What are the specific instruments used by the EU to support public administration reform?

²⁴ International expert of the EU funded project “Support to the implementation of the EU-Ukraine Association Agreement”

²⁵ Randma-Liiv, Tiina; Nakrošis Vitalis; Hajnal, György (2010): Public Sector Organization in Central and Eastern Europe: From Agencification to De-Agencification in Transylvanian Review of Administrative Sciences, Special Issue, 160-175, p. 165,
https://www.researchgate.net/publication/228763960_Public_Sector_Organization_in_Central_and_Eastern_Europe_From_Agencification_to_De-Agencification (accessed 16.01.2018)

2. What domestic conditions are in place for the Europeanization of ongoing public administration reform in Ukraine since 2016?
 - 2.1. What is the history of public administration reform in Ukraine and in what way is it comparable with SIGMA good governance principles?
 - 2.2. What are the domestic costs of implementing the Public Administration Reform Strategy through 2021?
 - 2.3. Which support of public administration reform is in place from the politicians and civil society?

This thesis contributes to the academic debate on Europeanization beyond EU borders, in particular in countries without a clear EU membership perspective.

This thesis examines the impact of the EU beyond its borders with accordance to the conditions extracted from external governance theory. Accordingly, this question is investigated here through the qualitative analysis of three types of conditions for the effectiveness of European policy implementation: *EU policy toward EaP countries (with the assessment of their interdependence), internal Ukrainian factors and international influence*. It is a complex approach to the whole state, but this thesis will focus on support for public administration reform, based on good governance requirements and being part of the EU Eastern Partnership.

The influence of EU and Ukrainian internal conditions on the advance of public administration reform in Ukraine in 2016-2018 is discussed in this thesis from the perspective of Europeanization theory. This case study will analyze primary and secondary literature, official documents of the Ukrainian government, EU documents and statements made by Ukrainian as well as EU officials. Finally, I will use semi-structured interviews which I conducted during September-November 2018 with two Ukrainian public servants, experts from EU-funded projects designed to support public administration reform and European integration as well as two local non-state employed experts.²⁶

The current situation in Ukraine is so that the EU gives a clear sign that Ukraine has not been seen as a potential EU member. Simultaneously the EU declares that the Association agreement (AA) and the Deep and Comprehensive Free Trade Area (DCFTA) are not an end goal of the cooperation

²⁶ For the list of interviewees see Appendix

between the EU and Ukraine.²⁷ In Ukraine, nonetheless, there is a growing consensus on European integration as a strategic goal, which has been highlighted in the constitution of Ukraine.²⁸

In this paper, I will assess Ukrainian and EU conditions in place which lead to the Europeanization of Ukraine within the framework of ongoing public administration reform (PAR). There are two main approaches, evident from my research, but they are not mutually exclusive: PAR in Ukraine is primarily driven by EU external efforts or by the domestic initiative. This is because the Association Agreement came into force and it implies fulfilment of duties from both sides and mutual responsibility for its fulfilment.

The Association Agreement between the European Union and its Member States, on one hand and Ukraine, of the other, came into force on 1 September 2017 with all the aligned responsibilities from both sides. Title I and II of the AA contains the following statement “...rule of law, good governance [...] are central to enhancing the relationship between the Parties.”²⁹ Further references to good governance run through all further articles of the Association Agreement like a golden thread, hence, the main goal of public administration reform is to strengthen good governance in Ukraine.

The research question is interesting to follow as Ukraine adheres to the European Union Neighborhood Policy but is neither a candidate country nor a potential candidate country of the EU in the near future. According to the Constitution of Ukraine, the Government of Ukraine (Cabinet of Ministers) is accountable only to the Parliament (Verkhovna Rada) and the President of Ukraine.³⁰ That means that all the possible impacts of the EU only have an *advisory and expert character*, thus the support to Ukraine is represented as technical development assistance via EU experts as well as macroeconomic financial support for the achieved reforms in general and PAR in particular.³¹

²⁷ Council of the European Union (2014): Council conclusions on Ukraine, Foreign Affairs Council meeting, Brussels, 10.02.2014, page 2, point 5, <http://www.consilium.europa.eu/media/28975/140973.pdf> (assessed 17.05.2018)

²⁸ Radio Svoboda, 7 February 2019: Parliament introduced amendments to the Constitution on the course of Ukraine to the EU and NATO, <https://www.radiosvoboda.org/a/news-zminy-konstytutsii-eu-nato/29756463.html> (accessed 30.03.2019)

²⁹ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, Official Journal of the European Union (29.05.2014), [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529(01)&from=EN) (accessed 31.08.2018)

³⁰ President of Ukraine: Constitution of Ukraine, <http://www.president.gov.ua/ua/documents/constitution/konstituciya-ukrayini-rozdil-vi> (accessed 31.08.2018)

³¹ European Union External Action Service, 22 December 2016: EU provides €104m to support Ukraine's public administration reform, https://eeas.europa.eu/headquarters/headquarters-homepage/18096/eu-provides-eu104m-support-ukraines-public-administration-reform_en (accessed 30.11.2018)

1.3. Hypothesis

The first assumption here is that the EU introduced all necessary conditions and instruments for effective Europeanization, but their degree of influence is not the same as for the candidate countries or for member states. This makes incentives not strong enough for Ukrainian politicians to give more attention to public administration reform needs. Accordingly, conditionality, which worked for the CEE Eastern Enlargement countries, does not work that smoothly in Ukraine, which has no officially declared membership perspective. The second assumption concerns Ukrainian domestic conditions. In case of the thorough implementation of the Public Administration Reform Strategy, most biased and corrupt practices should be eliminated, and the practice of research-based political decision-making should be in place. This makes the goals of *public administration reform too ambitious* for the country with its economy in transition. Additionally, public administration reform in Ukraine should be adjusted according to SIGMA good governance criteria, which makes it even more ambitious to implement.

Initially, the EU promotes its values of good governance to third countries from its neighborhood to make their public administration systems more capable to implement EU *acquis* as a part of Association agreements. The EU attempts to influence the situation with outdated public administration in Ukraine as it has an interest in *stabilizing its borders* and having a predictable and sustainable neighborhood with shared democratic values. At the same time, it has very little influence on the improvement of public administration as even within the EU public administration is under national jurisdiction and the EU has no influence on it. However, it does not hinder the EU to use its instruments within the established framework.

The internal political situation of Ukraine influences its goal to Europeanize its own public administration and established a certain framework for this purpose: the Strategy for Public Administration Reform through 2021. The political situation shows that Ukrainian political elites have little incentive to undertake this reform as it is difficult to advertise it to the public and there are lesser incentives given to Ukraine compared to those proposed to CEE countries: the membership perspective. The only notable for the public outcome is the improved provision of administrative services and the gradual creation of a service-oriented civil service, which is only one part of the strategy.

2. Theoretical framework

This chapter is based on the analysis of the theory of Europeanization for third countries with further assessment of the factors which influence Europeanization towards these countries.

Since the fall of the Soviet Union, the range of evolving democracies has been significantly increased on the European continent. Since then, the EU approach to external policy has changed from apolitical to the promotion of democratic values in third countries. The definition of ‘good governance’, which usually refers to the ‘transparent and accountable system of the resource management’ appeared only in the 1990th with the purpose of assembling such EU values as *democracy, human rights and the rule of law*, which became a mandatory part of all EU bilateral agreements since then.³²³³ By looking at governance from this angle, it does not necessarily have to be democratic or promote any EU values. Simultaneously, if the governance system is weak, the decision-making system is insufficient to implement *acquis*.³⁴

The UN as has defined governance as follows: “*the process of decision-making and the process by which decisions are implemented (or not implemented)*”.³⁵ This term can be applied at the international, civil or local level. From this follows the idea regarding how to define what bad or good governance means. The idea focuses on the quality of the state, rather than its size, and that institutions are sets of rules and how they influence international socio-economic inequality.³⁶ “[...] ‘governance’ [is understood] as institutionalized forms of coordinated action that aim at the production of collectively binding agreements”.³⁷

Börzel and Risse identify three dimensions upon which Europeanization could be applied to the Domestic Change: policies, politics, and polity.³⁸ The category ‘policies’ encompasses the EU

³² Horng, Der-Chin (2003): The Human Rights Clause in the European Union’s External Trade and Development Agreements, *European Law Journal*, 9(5): 677–701 <https://onlinelibrary-wiley-com.uaccess.univie.ac.at/doi/epdf/10.1046/j.1468-0386.2003.00198.x> (accessed 01.05.2018)

³³ Lavenex, Sandra; Schimmelfennig, Frank (2011): EU democracy promotion in the neighbourhood: from leverage to governance? *Democratization*, 18:4, 885-909

³⁴ Jorgensen, Knud Erik, et al. (2015): *The SAGE Handbook of European Foreign Policy*, SAGE Publications, ProQuest Ebook Central <https://ebookcentral-proquest-com.uaccess.univie.ac.at/lib/univie/detail.action?docID=2038967> (accessed 02.05.2018)

³⁵ United Nations Economic and Social Forum for Asia and Pacific: What is Good Governance? <http://www.unescap.org/resources/what-good-governance> (accessed 23.10.2018)

³⁶ North, Douglos (1990): *Institutions, Institutional Change and Economic Performance*, Cambridge University Press 1990, p. 151

³⁷ Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812, p. 795

³⁸ See Table 1

influence of the methods, ways and concepts of the development of national policies. ‘Politics’ refers to the changes in the political culture and even the creation of new parties, which are more similar to those at the EU level. The third category ‘polity’ influences the whole structure either of the government, its formal and informal institutions, or such sector-specific areas as the juridical system, *public administration*, bureaucratic structures, state traditions, etc. Hence, public administration within the ‘polity’ cluster is one of the subjects influenced by Europeanization.³⁹

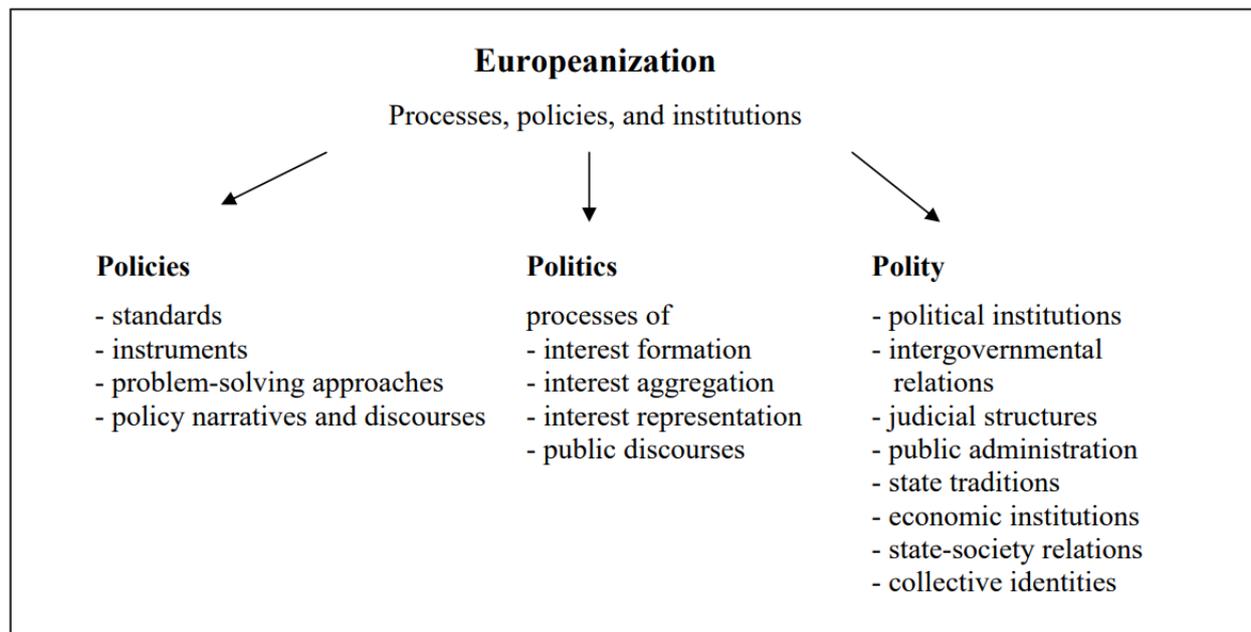


Table 1: Parts of Europeanization, extracted from: Börzel, Tanja; Risse, Thomas (2003): *Conceptualizing the domestic impact of Europe. The politics of Europeanization*, 57-80.

2.1. Concept of Europeanization

Europeanization is a broad topic of research and has many meanings. It is applicable for defining various processes and phenomena of change.⁴⁰ Featherstone defined the term ‘Europeanization’⁴¹ as the one which could be applied within four broad categories and defined the term “Europeanization” as a historical process, as a matter of cultural diffusion, *as a process of institutional adaptation*, and as the adaptation of policy and policy processes. The first two are rather abstract definitions and have no direct connection to the EU and the last two are more applicable to processes within the EU. In

³⁹ Börzel, Tanja; Risse, Thomas (2003): *Conceptualizing the domestic impact of Europe. The politics of Europeanization*, 57-80, p. 3-4

⁴⁰ Olsen, Johan (2002): *The Many Faces of Europeanization*, *JCMS: Journal of Common Market Studies*, December 2002, Vol.40(5), 921-952, p. 921

⁴¹ Featherstone, Kevin (2003): *Introduction: in the name of ‘Europe’*, in: Kevin Featherstone & C.M. Radaelli (eds.) *The Politics of Europeanisation*, 3-26, p. 5-6, <http://web.a.ebscohost.com.uaccess.univie.ac.at/ehost/detail/detail?vid=0&sid=be04a7e2-190e-436b-8d39-a0bf897d11c8%40sessionmgr4008&bdata=JnNpdGU9ZWlhvc3QtbGl2ZQ%3d%3d#db=nlebk&AN=257780> (accessed 9.10.2018)

this paper, the two latest categories shall be discussed with the prioritization of the EU's external governance in the sphere of the *influence on institutional adaptation* of the neighborhood countries. Good governance and effective public sector institutions are also categories, which apply to the whole EU structure and are one of the requirements potential member states must fulfil. The term 'Europeanisation' is most widely used to indicate the process of institutional adaptation in response to pressure by EU institutions.⁴²

Simultaneously, Jorgensen⁴³ sees European foreign policy as a field of research at the junction of three disciplines: International Relations, Foreign Policy Studies and European Studies. He divides it further into the following areas:

- 1) relations with third countries and international institutions,
- 2) policy analysis,
- 3) politics of the foreign policy,
- 4) institutional development within EU,
- 5) role of the EU, and its member states in the politics of European foreign policy.⁴⁴

From the other side, Olsen⁴⁵ does not see Europeanization as a homogenous phenomenon, but divides the possibilities of the application of this term into the following five ways:

1) changes in external boundaries are seen together with the enlargement policy of the EU and refers to rule application;

2) developing institutions at the European level, which refers to the building of efficient and capable institutions for effective governance and Olsen understands it as purposeful decision-making;

3) central penetration of national systems of governance, which implies adaptation of national and sub-national norms throughout Europe and happening via two basic processes of adaptation: experiential learning and competitive selection;

4) exporting forms of political organization, which precisely reflects the case of expenditure of some European norms beyond EU territory and institutions and is interpreted as a process of diffusion;

⁴² Juraj, Nemeč (2016): *Europeanisation in Public Administration Reforms*, Bratislava: NISPAcee, p. 63, <http://www.nispa.org/files/EU-book-Georgia-EN.pdf> (accessed 07.03.2019)

⁴³ Jorgensen, Knud Erik, et al. (2015): *The SAGE Handbook of European Foreign Policy*, SAGE Publications, ProQuest Ebook Central, p. 4 <https://ebookcentral-proquest-com.uaccess.univie.ac.at/lib/univie/detail.action?docID=2038967> (accessed 02.05.2018)

⁴⁴ Ibid. 14-15

⁴⁵ Olsen, Johan (2002): *The Many Faces of Europeanization*, *Journal of Common Market Studies*, Vol.40, No.5 (2002), 921-52, p. 923-926

5) political unification project, which reflects mutual adaptation of institutions to each other. In some particular cases, Europeanization is used as a synonym of *European integration*. Hence, there is no one approach to study Europeanization. As Schimmelfennig and Sedelmeier⁴⁶ suggest, the manner of distinguishing possible ways of research could be structured in the following way: classical integration theory, which is represented by contradiction of neo-functionalism and intergovernmentalism and focuses on polity issues, and the comparative politics perspective, with its focus on politics and governance approach which stresses *policy outcomes*.

This paper is related to the evaluation of the factors, which influenced the ongoing public administration reform in Ukraine from the perspective of the *EU governance in third countries*. Independent assessments by SIGMA of the quality of public administration were made only twice: in 2006 and 2018. Both were based on the methodology and indicators developed for the EU Enlargement candidate countries and potential candidates. These indicators are more demanding than those which are in use for ENP countries.⁴⁷ Simultaneously, the EU has the Instrument for Pre-accession Assistance (IPA), which, among other spheres, includes investments in public administration reform.⁴⁸ Hence, PAR is about strong and capable public institutions, which can sustain democracy, rule of law and human rights.⁴⁹ Correspondingly, observing the case of PAR, the EU promotes and supports reforms, which are beyond ENP and even mirrors the EU *enlargement* policy.

2.2. European integration

Bieling and Lerch have discussed theories of *European integration*.⁵⁰ They pointed out that from the 90th changes were made in the way to study Europeanization, with the focus changing from integration studies to the legislative, institutional functioning of the EU and the creation of European identity. It is important to highlight that the *Copenhagen criteria*, or Accession criteria, was established in 1993.⁵¹ Before the establishment of these criteria, three first waves of enlargement had

⁴⁶ Schimmelfennig, Frank; Sedelmeier, Ulrich (2005): *The Politics of European Union Enlargement: Theoretical Approaches*. London: Routledge, p. 280

⁴⁷ SIGMA: Baseline Measurement Report: The SIGMA report Ukraine 2018 <http://www.sigmaxweb.org/publications/Baseline-Measurement-Report-2018-Ukraine.pdf> (accessed 18.09.2018)

⁴⁸ European Commission: Overview - Instrument for Pre-accession Assistance https://ec.europa.eu/neighbourhood-enlargement/instruments/overview_en (accessed 18.09.2018)

⁴⁹ European Commission: About the Instrument for Pre-accession Assistance (IPA) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/leaflets/150928_en_leaflet_ipa2-public-admin.pdf (accessed 18.09.2018)

⁵⁰ Bieling, Hans-Jürgen; Lerch, Marika (2005): *Theorien der europäischen Integration: Ein Systematisierungsversuch*; In: Bieling, Hans-Jürgen/ Lerch, Marika, 1. Auflage, VS Verlag für Sozialwissenschaften, Wiesbaden, 9-40, p. 25

⁵¹ EUR-Lex: Access to European Union Law: Accession criteria (Copenhagen criteria) https://eur-lex.europa.eu/summary/glossary/accession_criteria_copenhagen.html (accessed 18.09.2018)

already taken place in 1973, 1981 and 1986.⁵² However only after the decision of the EU to expand further, did there appear a clear backbone for future *conditionality*, when the EU stressed the necessity of countries aspiring for EU accession to implement a certain amount of *acquis*.

In 1994 a notion developed in the Copenhagen criteria to elaborate the marked economy to make the accession process of the CEE smoother. However, later in 1995 the Madrid European Council decisions were followed up by an administrative capacity requirement, or '*the bureaucracy criterion*'.⁵³

Currently, to become a member, a country needs to fulfil following criteria:

- “1) *stability of institutions* guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- 2) a *functioning market economy* and the ability to cope with competitive pressure and market forces within the EU;
- 3) ability to take on the obligations of membership, including the *capacity to effectively implement* the rules, standards and policies that make up the body of EU law (the ‘*acquis*’), and adherence to the aims of political, economic and monetary union”.⁵⁴

Largely, to be able to fulfil the Copenhagen criteria, strong, sustainable and capable institutions are needed, which links with public administration reform.

Lawton⁵⁵ suggests in his research the idea that the incorporation of EU policies into the domestic process of policy-making via changing the rules, procedures and policies is called '*Europeification*' of the policies, which does not take place in the *top-down* way, but rather in such a way that the domestic government allows it to happen by securing its legitimacy.

⁵² EU Enlargement Factsheet: How does the EU Accession Process Work?, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/factsheet_en.pdf (accessed 18.09.2018)

⁵³ Dimitrova, Antoaneta (2002): Enlargement, Institution-Building and the EU's Administrative Capacity Requirement, *West European Politics*, 25:4, 171-190, p. 177

⁵⁴ Ibid.

⁵⁵ Lawton, Thomas (1999): Governing the Skies: Conditions for the Europeanisation of Airline Policy, *Journal of Public Policy*, 19(1), 91-112, p. 108

Another terminology was applied by Lavenex⁵⁶ as ‘*extraterritorialization*’ of EU policies on the third countries. It was noted that after ‘enlargement fatigue’ since 2004,⁵⁷ the most successful type of external governance of the EU faced difficulties with ‘integration capacity’ of the existing and recently joined member states, thus this turned into other ways of the EU extending its influence and making third countries without membership perspective accept and integrate *acquis*.

2.3. External governance

External governance theory was used as a core component in this research paper to investigate what triggers or hinders reforms taking into consideration EU policy external extrapolation. Early research on Europeanization defined two main types of external governance: ‘soft’ and ‘hard’.⁵⁸ External governance became the core theoretical approach to the research on the *influence of the EU on its neighborhood*.⁵⁹ Trying to answer the question on the effectiveness of EU external governance: “under which circumstances third-countries which are outside of the circle of potential EU members adapt to EU *acquis*?”, Lavenex and Schimmelfennig⁶⁰ highlight the crucial importance of *domestic conditions*.

Lavenex⁶¹ suggests that if external governance is discussed beyond *enlargement* for third countries, which are not candidate countries, then there is a need to consider more than one institutional solution and tool. The *Conditional promise* of accession to the EU was the main instrument for norms transfer; hence, the models of *social learning* and *lesson-drawing* were only marginally related to the accession promises. Thus, Lavenex points out that conditionality is not an effective tool to transfer norms outside of the organization. Especially considering the kind of organization the EU is, enlargement fatigue is a factor. Simultaneously, *sector-specific conditionality* has been used by the EU with ENP countries and has shown its reliability. If the EU sets clear targets for reform goals and has an effective monitoring and evaluation system with rewards and at the same time there is a *social learning* and

⁵⁶ Lavenex, Sandra (2004): EU external governance in ‘wider Europe’, *Journal of European Public Policy*, 11:4, 680-700, p. 681

⁵⁷ Schimmelfennig, Frank (2008): EU political accession conditionality after the 2004 enlargement: consistency and effectiveness, *Journal of European Public Policy*, 15:6, 918-937, p. 919

⁵⁸ Friis, Lykke; Murphy, Anna (1999): The European Union and Central and Eastern Europe: Governance and Boundaries, *JCMS: Journal of Common Market Studies*, June 1999, Vol.37(2), 211-232

⁵⁹ Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812

⁶⁰ Ibid.

⁶¹ Ibid. 794

lesson-drawing process, which has been undertaken by domestic authorities, there is a higher chance of institutional transformation.⁶²

Overall, the research on EU governance in its neighborhood goes far beyond international relations and tends to incorporate *acquis* in sectoral negotiated policies.⁶³

Accordingly, external governance within the sphere of Europeanization takes place when parts of the *acquis communautaire* are extended to non-member states.⁶⁴ External governance for third countries is based rather on *networked* forms of interaction than on the *hierarchical* forms of policy export practiced in enlargement. This approach is also criticized because of its concentration on the effectiveness and efficiency of problem-solving capacity and ignores the political aspect.⁶⁵ This is rather a technocratic approach, but the political part of ENP countries is very important and should be considered.

As for non-member states and for non-perspective candidate states, 'external governance takes place when parts of the *acquis communautaire* are extended to non-member states'.⁶⁶ This refers rather to the legal approximation than on the institutional transformation due to adaptational pressure.

Based on the ideal types of governance, conceptualized by Lavenex *et al.*,⁶⁷ as well as their application to third countries, developed further by Lavenex *et al.*,⁶⁸ the following modes of external governance of the EU were structured as: *hierarchy*, *networks*, and *markets*. Hierarchical governance implies formalized asymmetrical top-down relations, when certain rules (*e.g. acquis communautaire*) agreed to be transferred with the usage of monitoring, sanctioning and incentives instruments.⁶⁹ This type of governance is quasi applicable to the ENP. *De jure*, EU non-members are sovereign states

⁶² Langbein, Julia; Wolczuk, Kataryna (2012): Convergence without membership? The impact of the European Union in the neighbourhood: evidence from Ukraine, *Journal of European Public Policy*, 19:6, 863-881, p. 866

⁶³ Jorgensen, Knud Erik, et al. (2015): *The SAGE Handbook of European Foreign Policy*, SAGE Publications, ProQuest Ebook Central, p. 868 <https://ebookcentral-proquest-com.uaccess.univie.ac.at/lib/univie/detail.action?docID=2038967> (accessed 02.05.2018)

⁶⁴ Lavenex, Sandra (2004): EU external governance in 'wider Europe', *Journal of European Public Policy*, 11:4, 680-700, p. 683

⁶⁵ Jachtenfuchs, Markus (2001): The Governance Approach to European Integration, *JCMS: Journal of Common Market Studies*, June 2001, Vol.39(2), 245-264, p. 258

⁶⁶ Lavenex, Sandra (2004): EU external governance in 'wider Europe', *Journal of European Public Policy*, 11:4, 680-700, p. 683

⁶⁷ Lavenex, Sandra; Schimmelfennig, Frank (2007): Relations with the Wider Europe, *JCMS: Journal of Common Market Studies*, September 2007, Vol.45, 143-162

⁶⁸ Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812

⁶⁹ *Ibid.* 797

and the supreme laws of the organization are not binding national legislative and executive bodies of ENP states neither to adapt, nor to submit. Though there are sectoral target policies, upon which negotiating EU and ENP countries implement on the basis of mutually binding agreements. Negotiations are usually based on the conditionality principle. As a contrast to the hierarchical mode, a *network constellation* reflects a system of coordination of national rules which takes place when actors are formally equal, and the influence is based here on social learning and communication, and the conditions could be jointly negotiated. *Markets mode* defines completion between formally equal actors as a main reason for mutual recognition of rules.

Several contributions were made to the research on the effectiveness of the EU external governance with the usage of the aforementioned modes, including research conducted by Youngs in which he supports the idea that the mode the EU uses in third countries is mostly a *network*. Exceptions are made only for potential EU-member states, where the EU actively uses conditionality with the most credible incentive: an offer of membership. Otherwise, Youngs supports the notion that the effectiveness depends on the chosen mode, but if there is no membership perspective the domestic politics determine the outputs for rule selection and rule adoption, and inner politics also explain why a break appears sometimes between rule selection, adoption and implementation. Accordingly, Youngs drew more attention to the political structures of third countries and EU bargaining power.⁷⁰

According to Youngs, promotion of democracy within the EU happens on a basis of hierarchy; therefore, external governance for democracy promotion reflects inner EU politics. A condition such as ‘democracy’ is “*a basic, essential and non-negotiable condition of EU membership*”⁷¹. Hence, the condition for good and effective governance is the other ‘non-negotiable’ condition, which must be applied to all member states and candidate countries.

2.3.1. Enlargement Policy

Enlargement used to be a predominant approach of EU external governance and a way to impose its *acquis* on neighboring countries. Nevertheless, as there appeared a question of “where does Europe end?” and a problem of ‘integration capacity’ of the existing members within the EU, this approach was phased out.⁷²

⁷⁰ Youngs, Richard (2009): Democracy promotion as external governance?, *Journal of European Public Policy*, 16:6, 895-915

⁷¹ *Ibid.* 900

⁷² Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812, p. 793

Yet there are other points of view on enlargement, for example, Schimmelfennig and Sedelmeier describe the enlargement from the perspective of rationalist and constructivist institutionalism. Studies on the Europeanization of EU potential members and recently joined countries progressed since the fifth eastern enlargement of the EU where theoretical research was represented as a dispute between two following approaches in International Relations and Comparative Politics.⁷³

- the rationalist institutionalist approach implies “*logic of consequentialism*” which assumes a “misfit” between EU and national rules, a lack of powerful veto-players, what enables fair redistributions of resources, and formal institutions, which provide actors with resources to boost the change;
- the constructivist or sociological institutionalist approach refers to the “logic of appropriateness” and puts an accent on socialization and learning, the presence of “*change agents*” and cooperative political culture.⁷⁴

Schimmelfennig and Sedelmeier describe the enlargement of organizations as “*a process of gradual and formal horizontal institutionalization of organizational rules and norms*”.⁷⁵ Consequently, institutionalization is a formalization of rules for social interaction. Horizontal and vertical institutionalization correlates accordingly with the ‘*deepening*’ or ‘*widening*’ policy of the organization. The authors recognize formal and informal rules, which accompany the whole process of enlargement but also emphasize that this process goes beyond these sets of rules and starts way before any membership negotiations have started and takes place even after accession.⁷⁶ Therefore, the study of enlargement focuses on the study on institutions, their analysis and the effectiveness of their work.⁷⁷ The authors distinguished four dimensions of enlargement:

- 1) applicants’ enlargement politics,
- 2) member states enlargement politics,
- 3) EU enlargement politics,
- 4) effects of these politics.

⁷³ Sedelmeier, Ulrich (2011): Europeanisation in New Member and Candidate States; In: Living Reviews in European Governance, Nr. 6 (1), p. 5

⁷⁴ Börzel, Tanja; Risse, Thomas (2003): Conceptualizing the domestic impact of Europe. The politics of Europeanization, 57-80, p. 3-4

⁷⁵ Schimmelfennig, Frank; Sedelmeier, Ulrich (2005): The Politics of European Union Enlargement: Theoretical Approaches. London: Routledge, p. 5

⁷⁶ Ibid.

⁷⁷ Ibid. 6

The question for the first dimension would be why and under which conditions non-members are willing to acquire membership status. Theoretical studies on the second question mainly focus on the enlargement politics of single member states. EU enlargement politics are divided into macro and substantive dimensions, where the macro dimension reflects the choice of the potential candidate and the substantive dimension reflects specific outcomes of accession politics in different policies of the state.

Grabbe⁷⁸ defined three criteria for his hypothesis that the EU heavily influences institutional transformations in accession countries: *speed of adjustment, loyalty of local elites and the wideness of the EU requirement to accession states*. The first criteria is about the conditional factor for accession countries without long transitional periods; the second factor reflects limits of local elites to negotiate upon EU conditions and a lesser possibility to mitigate EU policies; and the third factor is stated in the Copenhagen criteria: the ‘ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union’.⁷⁹ Such wide and unclear description gives the EU the right to interpret this condition in a way that better suits the EU.

Instantaneously, Grabbe describes different *mechanisms within conditionality*, which the EU uses to influence accession states⁸⁰:

- 1) *gatekeeping*: accession negotiations;
- 2) *benchmarking and monitoring*: ex-ante and the ex-post evaluation, defining results which could and should be delivered in time;
- 3) *models*: requirements of strengthened institutions with prior defining of legislative gaps and institutional weaknesses;
- 4) *aid*: financial support and technical assistance;
- 5) *advice and twinning*: experts’ support and targeted projects.

These mechanisms will be further discussed within the analytical part of this thesis as a part of the EU policy of conditionality assessment on public administration reform.

⁷⁸ Grabbe, Heather (2001): How does Europeanization affect CEE governance? Conditionality, diffusion and diversity, in *Journal of European Public Policy*, 01 January 2001, Vol.8(6), 1013-1031, p. 1014-1015

⁷⁹ EUR-Lex: Access to European Union Law: Accession criteria (Copenhagen criteria), https://eur-lex.europa.eu/summary/glossary/accession_criteria_copenhagen.html (accessed 18.09.2018)

⁸⁰ Grabbe, Heather (2001): How does Europeanization affect CEE governance? Conditionality, diffusion and diversity, in *Journal of European Public Policy*, 01 January 2001, Vol.8(6), 1013-1031, p. 1014-1015

In addition, the following EU inner factors weaken its own influence over third states.⁸¹

- 1) *diffusion*: the EU represents itself in various projects, representatives of EU institutions and EU-member states which have some experiences in reforms. Hence, each actor has its own vision on what should be done, or which targets should be achieved in a country depending on its state of things, and so the recommendations vary accordingly.
- 2) *interaction*: domestic leaders could access the EU model or advice as one of many other actors; the domestic factor in this case also plays a crucial role. The EU interacts with central and local levels on the reforms agenda, but as there is a lack of coherence within the EU itself, where each state has its own public administration system and corporate culture, the EU cannot provide any clear template on how things should work, as they do work even within the EU in various ways. The EU in this case triggers the process of change not only as externally driven and imposed, but rather domestically driven. Any changes require technical assistance, however they are always politically driven from both the EU side, as well as from the domestic side.

Schimmelfennig and Sedelmeier developed the following three approaches to study ways of transferring EU norms to third countries:

- 1) *Bottom-up* approach or ‘linkage’: this approach is based on the activities that ensure the creation and further support of preconditions for democratic development and support civil society actors or are loyal to EU values opposition in certain countries.⁸² Discussing the case of Ukraine, the bottom-up approach has been argued by Melnykovska and Schweickert⁸³ as the one which could be applicable to the oligarchs which have access to the government and parliament through the elections or because of connections. Hence, the authors emphasize the overall fatigue of civil society in Ukraine, which has just awoken after the Orange Revolution.
- 2) *Top-down* approach or ‘leverage’: ensures democratic reforms via conditionality.⁸⁴ This approach showed great success for the Central and Eastern European countries (CEE) because

⁸¹ Ibid. 1024

⁸² Lavenex, Sandra; Schimmelfennig, Frank (2011): EU democracy promotion in the neighbourhood: from leverage to governance?, *Democratization*, 18:4, 885-909, p. 886

⁸³ Melnykovska, Inna; Schweickert, Rainer (2008): Bottom-up or top-down: what drives the convergence of Ukraine’s institutions towards European standards?, *Southeast European and Black Sea Studies*, 8:4, 445-468

⁸⁴ Lavenex, Sandra; Schimmelfennig, Frank (2011): EU democracy promotion in the neighbourhood: from leverage to governance?, *Democratization*, 18:4, 885-909, p. 886

of the attractiveness of the reward of the fulfilment of EU-imposed conditions and did not show its effectiveness for the non-potential EU members.⁸⁵

- 3) *Governance model*: functional cooperation between administrations has shown the third way of cooperation between EU and ENP countries: sector-specific cooperation. This type of cooperation involves EU and third countries on a certain negotiated basis and demands certain negotiated activities from both sides. Hence, cooperation happens only on a basis of *agreement* in spheres which are of interest to both sides.⁸⁶

It is important to mention that the stated approaches are not mutually exclusive and could all be in place. Additionally, the so-called Sandwich model has been discovered. This model has been developed recently by a group of social scientists from PONARS Eurasia⁸⁷ and supports the idea that *civil society in cooperation with the international community* plays a crucial role in the implementation of reforms in a situation when neither the government nor the opposition supports necessary reforms. This cooperation was a new feature which pushed the reforms, and which had been missing after the Orange revolution in 2004. Consequently, civil society works from below; representing *bottom-up* influence, and international organizations work as a *top-down* trigger on the right politicians. The Sandwich model is clearly in place in the case of Ukraine, however public administration is rather an internal thing and the public is relatively unaware or not interested in internal structures or conditions of work for civil servants; the only thing which is directly attached to them is the provision of administrative services from the government and their accessibility. Simultaneously, civil society activities toward public administration in Ukraine are briefly discussed in the analytical part.

2.3.2. External Europeanization

Most of the literature on Europeanization has been focused either on the EU member-states, its quasi-states like Switzerland, Norway and Sweden or on the potential or candidate countries. Way less attention was given to the non-EU member states, which are neither potential nor candidate countries of the EU.⁸⁸

⁸⁵ Ibid. 887

⁸⁶ Ibid.

⁸⁷ Nitsova, Silviya; Pop-Eleches, Grigore; Robertson, Graeme (2018): Revolution and Reform in Ukraine Evaluating Four Years of Reform, PONARS Eurasia, http://www.ponarseurasia.org/sites/default/files/policy-perspectives-pdf/Revolution%20and%20Reform%20in%20Ukraine_Nitsova_Pop-Eleches_Robertson_July2018.pdf (accessed 30.09.2018)

⁸⁸ Schimmelfennig, Frank (2015): Europeanization beyond Europe, Living Reviews in European Governance, Vol. 10, No. 1, p. 5, <http://europeangovernance-livingreviews.org/Articles/lreg-2015-1/> (accessed 01.05.2018)

Another type of research mostly reflects instruments and policies which the EU uses to influence its potential and candidate countries rather than how domestic policies and institutions are affected, as well as the outcome of EU efforts.⁸⁹

Schimmelfennig and Sedelmeier outlined that EU rules transfer to the domestic level of ENP countries, or ‘institutionalization’, is embedded into the change of rules, procedures and institutions in line with EU standards. Accordingly, they discuss models of EU external governance, under which it is possible to implement *acquis effectively*: the *external incentives model*, which usually refers to *conditionality*, the social learning model and the lesson-drawing model.

The latest ‘models of Europeanization’, *social learning* or *lesson-drawing*, were found to be only marginally relevant in the accession process,⁹⁰ therefore more relevant in the third countries context. From the other perspective, they could be considered complementary to each other.

1) Social learning

This model is represented as an alternative to conditionality and assumes a logic of *appropriateness*,⁹¹ which refers to sociological institutionalism. Accordingly, domestic governments are motivated by internationalized values and norms, rather than bargaining on rewards and punishments, and are driven by such factors as legitimacy, identity, and resonance. Thus, the main assumption is that the third countries’ adoption of the *acquis* happens if the state considers these rules as internationalized and appropriate for adoption, hence, the “logic of appropriateness” works for the social learning model.

2) Lesson-drawing

This model assumes that domestic government implements EU rules due to dissatisfaction with the existing ones with the expectation that the transferred rule could solve the existing domestic problem. The indirect impact of EU policies could affect governmental and non-governmental actors if they wish to either lose or acquire benefits, thus actors would have to adapt or ignore a particular rule.⁹²

⁸⁹ Ibid. 6

⁹⁰ See for example Schimmelfennig, Sedelmeier (2005) and Sedelmeier (2006)

⁹¹ Schimmelfennig, Frank; Sedelmeier, Ulrich (2004): Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, *Journal of European Public Policy* 11(4): 661–79, p. 667

⁹² Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812, p. 799

Freyburg et al.⁹³ suggests that the possibility of the application of the lesson-drawing model rises with the degree of existence of trans-governmental networks, where there is a place for the discussion of the Europeanization paths and *acquis* implementation in some sectoral policies. This is one of the ways that the EU can apply its policies through the ‘back door’, but not directly and as an imperative as for candidate countries.

Further discussing this model accordingly, it is relevant to point out the variety of existing models of public institutional building and that there could not exist one best decision regarding the architecture of the effective governance system.

3) External incentives and conditionality

This model is referred to as a rationalist bargaining model, where the domestic government could implement certain *acquis* if the EU suggests an appropriative reward. This model has been tested by Baltag and Romanyshyn (2011)⁹⁴ in the case of Ukraine and Moldova in the sphere of trade and energy policies and they came to the conclusion, that “*the higher level of rule implementation a higher level of incentive is needed*”, otherwise the implementation will not be effective enough. Although, the external factor there was represented as a trigger for negotiations with the EU because there is a high need within Moldova and Ukraine for diversification of trade and energy asymmetric relations with the Russian Federation. This model is also discussed by other researchers as EU conditionality. The key instrument for this model is conditionality.⁹⁵

Conditionality has been studied by many authors (e.g. Schimmelfennig, Sedelmeier, Lavenex, Dimitrova) with various conclusions on its effectiveness depending on a scope of various factors: domestic, EU and international. *Accession conditionality* could be observed as a set of requirements which have to be fulfilled by third countries in order to accede to the EU.⁹⁶ However, as the scope of

⁹³ Freyburg, Tina; Lavenex, Sandra; Schimmelfennig, Frank; Skripka Tatiana; Wetzel Anne (2009): EU promotion of democratic governance in the neighbourhood, in: *Journal of European Public Policy* 16(6), 916-934, p. 916

⁹⁴ Baltag, Doriana, Romanyshyn, Julian (2011): EU external governance: successful good governance promotion on Moldova and Ukraine?, Working Paper FG2, 2011/2, April, SWP Berlin, p. 17, https://www.researchgate.net/publication/271210534_EU_external_governance_successful_good_governance_promotion_in_Moldova_and_Ukraine (accessed 14.05.2018)

⁹⁵ Schimmelfennig, Frank; Sedelmeier, Ulrich (2017): The Europeanization of Eastern Europe: the External Incentives Model Revisited, Paper for the JMF@25 conference, EUI, 22/23 June 2017, p. 10-12, <https://www.eui.eu/Documents/RSCAS/JMF-25-Presentation/Schimmelfennig-Sedelmeier-External-Incentives-Revisited-JMF.pdf> (accessed 27.10.2018)

⁹⁶ Schimmelfennig, Frank; Sedelmeier, Ulrich (2004): Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, *Journal of European Public Policy* 11(4): 661–79

the countries which could accede to the EU has significantly decreased, the terms of conditionality have changed as well.

The conditionality approach for ENP countries differs from the conditionality for potential member states and is seen contrary to enlargement in such a way that it does not impose *top-down acquis* but is rather a result of negotiations and common sense with forward steps toward tangible goals from each activity that has been implemented by the third country.⁹⁷ Back to the post-Orange revolution period in Ukraine, it was noted in one of the studies of EU governance that the clear EU membership perspective could become a trigger for reforms in Ukraine, unlike EaP related activities.⁹⁸

In general, the effectiveness of the conditionality approach towards third countries depends on the *coherence of the EU as well as domestic factors*.⁹⁹ Therefore, the success of political conditionality is influenced by a tangible political offer from the EU, such as an offer of membership, consistency of EU enlargement policies and reasonable accession costing for the domestic government.¹⁰⁰ Accordingly, the conditionality approach to EU external governance has effective influence only if there is an *EU accession possibility for domestic government*. At the same time Burlyuk and Shapovalova suggest that from 2007 until 2014, the Association Agreement (AA) and Deep and Comprehensive Free Trade Area (DCFTA) were the main incentives for EU conditionality towards Ukraine.¹⁰¹ The authors conceptualize conditionality in two ways: *intergovernmental bargaining* and mobilization and *differential empowerment*.¹⁰²

Contrary to this, Holland contends that conditionality has been established as one of the *main instruments* of external governance, particularly for the Eastern Partnership (EaP) countries. Conditionality stipulates accountability of third countries and the EU uses positive approach, namely “*carrot*”, rather than sanctions, or “*stick approach*”.¹⁰³ It is applicable for the EU to use sanctions only in case all other possible ways have been unsuccessfully attempted, as well as to provide

⁹⁷ Sandra Lavenex (2008): A Governance Perspective on the European Neighborhood Policy: Integration Beyond Conditionality?, *Journal of European Public Policy*, 15:6, 938-955, p. 944

⁹⁸ Kelley, J. (2006): New wine in old wine skins: policy adaptation in the European neighborhood policy, *Journal of Common Market Studies* 44(1): 29 – 55, p. 51

⁹⁹ Schimmelfennig Frank (2008): EU political accession conditionality after the 2004 enlargement: consistency and effectiveness, *Journal of European Public Policy*, 15:6, 918-937, p. 920.

¹⁰⁰ Schimmelfennig, Frank; Sedelmeier, Ulrich (2005): *The Europeanization of Central and Eastern Europe*, Ithaca, NY: Cornell University Press

¹⁰¹ Burlyuk Olga; Shapovalova Natalia (2017): Veni, vidi, ... vici? EU performance and two faces of conditionality towards Ukraine, *East European Politics*, 33:1, 36-55

¹⁰² *Ibid.* 37

¹⁰³ Holland, Martin (2002): *The European Union and the Third World*, Palgrave, Basingstoke, 272, p. 258

additional support to countries which succeed in its development goals.¹⁰⁴ Nonetheless, essentially no sanctions could be applied to a sovereign state, which are EaP countries, as the only feasible sanction EU could apply is a reduction of the assistance bases on the non-fulfilment of the terms on which support was agreed to be provided.

Accordingly, Schimmelfennig and Sedelmeier¹⁰⁵ postulate that the external incentives model, which uses the “logic of consequences” is only successful in its effectiveness toward CEE countries. Simultaneously, the authors point out that there is a clear distinction between countries which have membership perspectives, and countries which are the part of the ENP. Since no clear goal like membership perspective is given to the ENP countries, the possible incentives and furthermore proper conditionality could not be used in the same way as for candidate countries, which was already supported by other authors.

Taking as an example Turkey, which is in continuous accession negotiations with the EU, the implementation of EU policy in Turkey has faced several issues which cannot be explained by EU conditionality, as some reforms have been strongly pushed by the EU and failed, while other reforms which were pushed less implemented successfully.¹⁰⁶

As Dimitrova and Dragneva¹⁰⁷ point out, the disputes around the question of the influence of the EU on its Eastern neighbors had optimistic character at the beginning and later turned into pessimistic. The authors suggest that the EU succeeded in its policies aimed to democratize and bring a market economy to post-socialist Central and Eastern European countries, who had an EU membership perspective, but as soon as the EU faced ‘enlargement fatigue’, it appeared that the influence would end when the incentives ‘to democratize’ are not tangible enough, especially if there is no clear membership perspective.

Dimitrova¹⁰⁸ suggests that conditionality is the main and most effective model of enlargement governance by the EU particularly in the CEE countries. This mode has been applied to one of the

¹⁰⁴ Smith, Karen (2001): *The EU, Human Rights and Relations with Third Countries: ‘Foreign Policy’ with an Ethical Dimension?*, in: *Ethics and Foreign Policy*, (Eds.) Smith, Karen E., Light, Margot, Cambridge University Press, Cambridge, 185–203, p. 190

¹⁰⁵ Schimmelfennig, Frank; Sedelmeier, Ulrich (2004): *Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe*, *Journal of European Public Policy* 11(4): 661–79, p. 674

¹⁰⁶ Buhari, Didem Gulmez (2017): *Europeanization in a Global Context: Integrating Turkey into the World Polity*, *Europeanization in a Global Context*, 61-75

¹⁰⁷ Dimitrova, Antoaneta; Dragneva Rilka (2013): *Shaping Convergence with the EU in Foreign Policy and State Aid in Post-Orange Ukraine: Weak External Incentives, Powerful Veto Players*, *Europe-Asia Studies*, 65:4, 658-681

¹⁰⁸ Dimitrova, Antoaneta (2002): *Enlargement, Institution-Building and the EU's Administrative Capacity Requirement*, *West European Politics*, 25:4, 171-190

main and most demanding requirements from the *Copenhagen criteria: good governance*, which includes strong institutions, professional bureaucracy and rule of law. The countries, which joined the EU after adhering to the Accession criteria, faced the most demanding requirements from the EU and yet struggled to accomplish ‘post-communist transformations.’¹⁰⁹

Dimitrova¹¹⁰ stipulates in her paper that asymmetry of relations and conditionality are indispensable features of enlargement governance of the EU for *candidate countries*. This combination leads to almost no veto points from veto players. The author provides two situations when the reform, should lead to strengthened institutional capacity. Two scenarios are being observed as those which lead to no succession of the rule transfer: 1) *weak inner consensus* within politicians, and 2) misfit of EU conditions with the national vision of the reform agenda. Both these cases potentially lead to ‘imitation of reforms, their contention or change.’¹¹¹

The Europeanisation approach to institution building in CEE has to take into account both the nature of EU enlargement governance and post-Communist transformations. Langbein and Wolczuk outlined key mechanisms, which the EU uses for its rule transfer to its neighborhood.¹¹²

“Sector-specific conditionality (e.g. market access for convergence in trade-related fields), assistance (technical and financial) and lesson-drawing (through transgovernmental networks).”

Thus, the authors emphasize that these mechanisms work as incentives only for some domestic actors, while others remain veto players, and this triggers the situation of highly selective rule adoption and implementation.¹¹³

2.4. Conditions for effective Europeanization

As there have been much research on how and with which instruments the EU could have an impact on its neighboring states, there is a prominent lack of literature dealing with the outcomes of such policies and measurement criteria to evaluate ‘effectiveness’.¹¹⁴ As these assumptions on the conditions for effective Europeanization were elaborated in line with the analysis of the data during

¹⁰⁹ Ibid. 173

¹¹⁰ Ibid. 173-175

¹¹¹ Ibid. 176

¹¹² Langbein, Julia; Wolczuk, Kataryna (2012): Convergence without membership? The impact of the European Union in the neighbourhood: evidence from Ukraine, *Journal of European Public Policy*, 19:6, 863-881, p. 864

¹¹³ Ibid.

¹¹⁴ Langbein, Julia; Wolczuk, Kataryna (2012): Convergence without membership? The impact of the European Union in the neighbourhood: evidence from Ukraine, *Journal of European Public Policy*, 19:6, 863-881, p. 866

the writing period, the last version of the conditions discussed in this theoretical chapter was based on data analysis related to the case study of public administration reform.

Firstly, the term ‘effectiveness’ has been defined by Lavenex and Schimmelfennig¹¹⁵ as “*the extent to which EU rules are effectively transferred to third countries*”. They delineate the following variables of measurement of the effectiveness of EU external governance: 1) *rule selection*, 2) *rule adoption* and 3) *rule application*.¹¹⁶ Langbein and Wolczuk applied these three criteria in the analysis of the EU-Ukraine process of convergence.¹¹⁷ Hence, the authors hint at the effectiveness of the transfer of a certain rule from the EU to a third country. The *first* level states that the EU rule was negotiated and implementation committed to on a domestic level. The *second* level illustrates whether the negotiated rule was adopted and reflected by domestic legislation and to what extent. The *third* level is the most important one as even though the rule has been negotiated and adopted by a third country;], it could remain unimplemented by the affected actors. Reasons for this could vary from drastic non-compliance with the rule by local institutions and weak implementation capacity.

Table 2: Effectiveness variables of the EU external governance, extracted from Lavenex, Sandra; Schimmelfennig, Frank (2009)

Effectiveness variable	Level	Effectiveness	Alternative outcome
Rule selection	International negotiations and agreements	EU regulations (or supported by the EU rule) is a topic of negotiations and agreements	Rule of another country or organization is in focus
Rule adoption	Domestic legislation	EU regulations (or supported by the EU rule) is incorporated into domestic legislation	
Rule application	Domestic political and administrative practice	EU regulations (or supported by the EU rule) is applied in practice	Disregard of the rule

In terms of the public administration of Ukraine, there are no strict EU regulations which must be adopted or applied; there are only *good governance criteria*, which were elaborated by SIGMA for EU member states, candidate countries and for ENP countries. The Ukrainian public administration

¹¹⁵ Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812, p. 800

¹¹⁶ See Table 2

¹¹⁷ Langbein, Julia; Wolczuk, Kataryna (2012): Convergence without membership? The impact of the European Union in the neighbourhood: evidence from Ukraine, *Journal of European Public Policy*, 19:6, 863-881

has been evaluated and scored by the SIGMA group in 2018, and this will further be evaluated in the analytical part of this thesis.

‘Effective Governance’ was defined as one of five priorities of the reforms agenda, described in Medium-Term Government Priority Action Plan to 2020 (MTGPAP). While presenting the MTGPAP Prime Minister V. Groysman outlined “*institutional weakness*” as one of the main problems that the system has at this moment.¹¹⁸ One of the goals of the Cabinet of Ministers of Ukraine is to improve the standard of life of citizens and increase its quality by ensuring sustainable economic development. Overall, the MTGPAP focuses on the improvement of all aspects of citizen's lives by achieving the following goals: sustainable economic growth, effective governance, development of human capital, rule of law and fight against corruption, security and defense.¹¹⁹

The Public Administration Reform Strategy through 2021 (PARS) has been adopted in accordance with the government priorities outlined by MTGPAP.¹²⁰ At the same time, public administration was introduced as one of the key priorities for the cooperation between European Neighborhood Policy (ENP) and Ukraine for 2018.¹²¹ The European Commission stated in its press release that one of the reforms Ukraine advanced in 2018 was PAR.¹²²

Lavenex and Schimmelfennig chose the *institutionalist* explanation¹²³ as the best one to explain and evaluate EU external governance in third countries, but they also described two other optional or rather complementary governance approaches: *power-based* and *domestic structure* explanations. Hence, according to the institutionalist explanation, the *quality of EU institutions* plays a great role in the delivery of external governance policies as they provide templates and form conditions for its effectiveness. The institutionalist hypothesis, or hierarchical approach emphasizes the legitimacy or legalization of EU rules as the easiest. The other important condition is the alignment of EU rules

¹¹⁸ Government of Ukraine, 28 December 2016: Prime Minister presented a draft Medium-Term Plan of Government Priorities for the Period until 2020, <https://www.kmu.gov.ua/ua/news/249628227> (accessed 29.05.2018)

¹¹⁹ Government of Ukraine, 3 April 2017: Medium-Term Plan of Priority Actions of the Government, <https://www.kmu.gov.ua/storage/app/media/plany%20uryadu/perednostrokoviy-plan-2020.doc> (accessed 30.05.2018)

¹²⁰ Government of Ukraine, 23 April 2018: Cabinet of Ministers reported on the implementation of the Strategy of Public Administration Reform, <https://www.kmu.gov.ua/ua/news/kabinet-ministriv-prozvituvav-pro-vikonannya-strategiyi-reformuvannya-derzhavnogo-upravlinnya> (accessed 30.05.2018)

¹²¹ Eastern Partnership Index 2015-2016, p. 54, http://www.eap-index.eu/sites/default/files/EaP_Index_2015-16_0.pdf (accessed: 28.05.2018)

¹²² European Commission, 9 November 2018: EU report: Ukraine makes important progress in its reforms but more needs to be done in particular on the judiciary and fight against corruption, http://europa.eu/rapid/press-release_IP-18-6322_en.htm (accessed: 8.1.2019)

¹²³ Lavenex, Sandra; Schimmelfennig, Frank (2009): EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16:6, 791-812

with internationally recognized practices. Political institutions have been seen as those which are in charge of affecting policy results.¹²⁴ Accordingly, the more the rule is in place within the EU and internationally, the more likely this rule would be selected, adopted and implemented in third countries' institutions.

Contrary to the above-mentioned statement, Sverdrup¹²⁵ sees the institutionalist perspective in a pessimistic way because large-scale reforms require significant resources to be implemented. However, only some of them show significant impact in the short run, as the process of institutional change has a gradual and permanent character which is in place in EU institutions.

An alternative or *power-based* explanation is built on the idea that the power of EU, embedded in its strong external structures, could compete with such international actors as the USA, Russia, UN institutions, etc., and ensure the presence of *asymmetric interdependence* with third countries. To be in place, this approach requires *high dependency on the EU* with no feasible international alternatives. Such relations could also characterize the EU's strong bargaining power with *credible incentives*, monitoring and evaluation systems while negotiating on the accession of CEE states. Credibility surges with the consistency and sustainability of EU conditions and rewards, as 'homework' must be done before any feasible rewards would appear. The hierarchical approach here is considered as the most effective as well as an institutionalist explanation. However, high symmetrical or medium interdependence relations are conducted according to market and network governance.¹²⁶

Finally, *domestic structure* and *institutionalist* explanations show the effectiveness of EU governance through the following conditions: *compatibility* between domestic institutions and EU rules of governance and *vice-versa* and EU member states institutions *comparability* with international, *low cost adoption*, which leads to fewer *veto players* and weakens the possible opposition to Europeanization.¹²⁷ Adaptational pressure and goodness of fit are one of the central factors and they depend on various additional characteristics: the importance of the policy to implement, expectations regarding the policy; the level of understanding of requirements; the clarity of policy objectives; and

¹²⁴ Börzel, Tanja; Risse, Thomas (2000): When Europe Hits Home: Europeanisation and Domestic Change, European Integration Online Papers, 01 November 2000, Vol.4(15), <http://eiop.or.at/eiop/pdf/2000-015.pdf> (accessed 14.05.2018)

¹²⁵ Sverdup, Ulf (2000): Ambiguity and Adaptation. Europeanization of Administrative Institutions as Loosely Coupled Processes Dissertation Submitted to the Department of Political Science, Faculty of Social Sciences, University of Oslo, in Fulfilment of the Requirement for the Degree of doctor rerum politicarum, May 2000, p. 169

¹²⁶ Ibid. 804

¹²⁷ Ibid.

the *compatibility* with domestic policy priorities.¹²⁸ This all should be properly communicated and outlined within the domestic and external actors.

2.4.1. Relevance of the conditions of Europeanization for Ukraine

The case of Ukraine is special in many ways: it is not a potential EU candidate, and the pressure for reforms is coming from below: emerging civil society, enthusiastic middle-level public servants, ongoing war, interests of huge oligarchic groups. Another interesting part of this research is that public administrations are country-specific, but the EU elaborated certain criteria to assess its effectiveness.

Umland¹²⁹, for instance, in his course of lectures which was represented in the Free Russia Foundation in Kyiv in 2018, had public lectures about reforms which Ukraine undertook after 2014. He uses the phrase “*Post-Maidan Ukraine*” and describes the following factors and actors, which influence the process of reforms in Ukraine and ‘*help Ukraine to move in the right dimension*’:

- 1) *The corrupt political class* will remain even after elections in 2019, but the situation after 2014 has changed and step-by-step this class is losing its influence; simultaneously, civil society has become more active;
- 2) *international donor organizations* now play a more important role and cooperate with civil society to implement reforms, which was called the ‘sandwich’ model;¹³⁰
- 3) *European Union* via Association Agreement uses its power and institutions to influence the process of reforms;
- 4) *Ukrainian diasporas*, who are actively working with the reforms agenda;
- 5) *war in Ukraine*: the question is not in a civilizational choice anymore, but rather in undertaking modernization of the country as the only way to survive as a state.

Adjusting the factors and actors discussed by Umland to the blocks of conditions for effective Europeanization of *public administration reform*, they could be divided in the following way:

¹²⁸ Mendez, Carlos; Wislade, Fiona; Yuill, Douglas (2008): Made to Measure? Europeanization, Goodness of Fit and Adaptation Pressures in EU Competition Policy and Regional Aid, *Journal of Comparative Policy Analysis*, 10:3, 279-298, p. 295

¹²⁹ Free Russia House, 12 September 2018: Umland: Six Scenarios of External Security for Ukraine | Free Russia House] [Video file] Retrieved from <https://www.youtube.com/watch?v=aVRPmvLirhI> (accessed 29.09.2018)

¹³⁰ Nitsova, Silviya; Pop-Eleches, Grigore; Robertson, Graeme (2018): Revolution and Reform in Ukraine Evaluating Four Years of Reform, PONARS Eurasia, http://www.ponarseurasia.org/sites/default/files/policy-perspectives-pdf/Revolution%20and%20Reform%20in%20Ukraine_Nitsova_Pop-Eleches_Robertson_July2018.pdf (accessed 30.09.2018)

- 1) *domestic conditions* would involve financial and human resources, engaged politicians, civil society, *civil servants*; political will to undertake necessary changes;
- 2) *EU conditions*: Association agreement, technical assistance from the EU and other international donors, *conditional financial support* from the EU;
- 3) International conditions would include the ongoing war with Russia, which made further emulation of reforms done in Russia unlikely. As outlined by Umland, Ukrainian diasporas do not influence public administration reform.

Additionally, Umland talks about countries in the 'gray zone': Ukraine, Moldova, Georgia and Azerbaijan. These countries have not joined NATO nor the Collective Security Treaty Organization (CSTO). Accordingly, all of them do not control some part of their territory, represent buffer zones and have security issues. Umland also points to the problem of the existence of two parallel worlds, where one is represented by liberal democracies with the possibility of self-determination in small countries as well as the world with divided spheres of interest of strong actors. Hence, even if Ukraine succeed in its implementation of reforms, Russia would not be interested in any steps towards the modernization of the country. The abovementioned factors are not necessarily applicable to the case of public administration reform, but they are still important to highlight.

Levels of the domestic adoption of external rule could vary depending on the abovementioned. Börzel et al. classified possible degrees of adoption as follows: absorption, accommodation, or transformation.¹³¹ Accordingly, the lowest level of domestic change is absorption, when European policies are incorporated into domestic policies without modifying existing procedures, institutions or policies. The medium degree of change is accommodation, when existing processes, policies and institutions are adapted without substantial change. In addition, the latest degree of domestic change is transformation, when existing institutions are replaced with different ones and the collective understanding of these institutions differs completely from the previous. The domestic Europeanization effect varies here depending on various factors: the situation within the country, the level of adaptation pressure, veto-players, the difficulties of explaining and understanding the change etc.

¹³¹ Börzel, Tanja; Risse, Thomas (2003): Conceptualizing the domestic impact of Europe. The politics of Europeanization, 57-80, p. 3-4, 14

2.5. Conclusion

To sum up, the presence of EU conditions for effective Europeanization is important, but the domestic ones transform it.¹³² This creates an environment where domestic and EU conditions should be combined to achieve the greater goal.

Therefore, the following conditions for effective Europeanization should be in place on the domestic level:

- 1) *political* and *financial* resources for the reform implementation, which makes targets and goals of the reform achievable;
- 2) capacity and political willingness to adjust the public administration of Ukraine to the OECD/SIGMA Principles of Public Administration.

On the EU level:

- 1) comparability of EU and international rules: support of approximation of the public administration of Ukraine to the SIGMA/OECD Principles of Public Administration and its progress oversight;
- 2) conditionality: clearly determinant and credible conditions for rewards, their amount and speed of provision, which means that financial and technical support should be sufficient for domestic actors to implement the reform;
- 3) interdependence between the EU and Ukraine: the EU needs a stable and predictable neighbor, and Ukraine needs a trade partner.

¹³² Nakrošis Vitalis; Bankauskaitė-Grigaliūnienė, Sabina (2014): Public Administration Changes and the Impact of the EU: Agencification and Depoliticisation in Central and Eastern Europe, Paper for the ECPR joint sessions, Salamanka 2014, p. 5, <https://ecpr.eu/Filestore/PaperProposal/5a110089-7378-41af-ba36-7e39f13612a5.pdf> (accessed: 24.01.2019)

3. Methodology

This thesis is based on the use of the following methods: qualitative assessments of the legislation, external and internal documents, evaluation of secondary research related to external governance and public administration reform, supported by interviews conducted with people directly attached to PAR from the side of the Government of Ukraine and other PAR support and implementation experts.

This research has an interdisciplinary character; it includes such disciplines as political science, international relations and partially public administration studies. The present thesis consists of several conceptual approaches, which were evolved in a few waves and are focusing on such spheres of Europeanization as social, cultural, political, and institutional. As there are many methods to conduct research on Europeanization, and accounting for its empirical nature, this paper is primarily based on the assessment factors, which delay and encourage PAR as well as of the EU assistance to the PAR. The theoretical part consists of the discussion of the approaches the EU uses in its influence of the various third countries: the enlargement policy for potential members and external governance for non-potential members. However, the case of Ukraine has a certain distinction with the enforcement of the AA, as this agreement is mutually binding for the EU and Ukraine.

The empirical nature of this research requires the in-depth analysis of the available sources as well as an analysis of the interviews of those involved in the PAR process. Initially, an interview contained six blocks of questions, divided into sub-questions, which were asked as a follow-up or to obtain more detailed information. Experts were e-mailed with an attached set of initial questions and the name of the topic of this thesis, but experts from the EU side declined to participate in the suggested survey referring to their employment with the EU. Contrary to this, Ukrainian officials mostly agreed to participate in the interview. With them there was held a so-called “guided conversation”. The types of questions were the same for reform support positions and reform support teams, the first of whom are civil servants and the second of whom are donor-sponsored non-governmental positions, and different questions were posed to the EU-project representatives and other actors.

3.1. Case study

The chosen method for this paper is case study. According to Hammersley,¹³³ data in a case study is collected on one or more cases in large amounts and considers diverse factors. In this type of research, cases occur from social phenomena with the following qualitative analysis on the relevant data. Most of the time the aim of a case study is not to generalize cases to apply them further, but rather to find

¹³³ Becker, Saul, Bryman, Alan; Ferguson, Harry (2012): *Understanding Research for Social Policy and Social Work: Themes, Methods and Approaches* (Vol. Second edition). Bristol: Policy Press

out the unique features of a particular case. Taking the case of EU governance in Ukraine on the example of PAR, a certain case is taken in the defined time with the evaluation of domestic (Ukrainian), EU internal and external (international) factors which arise from the theoretical part of this paper. There is also the notion that all research is a case study as it is always bounded by a defined analytical framework, in relation to which data is being collected and analyzed.¹³⁴ The amount of cases to be analyzed could be bound to one and qualitative data is usually treated as superior.¹³⁵

Gillham Bill¹³⁶ describes the characteristics of the case study in the following way:

- 1) a case study is always designed to answer a particular research question using diverse data sources;
- 2) there are no a priori theories to shape your case unless the data was started to be analyzed: evidence usually comes before theory shaping an inductive form of analysis.¹³⁷

Case study is the main method used in this research paper. Sub-methods also being used include documents and data analysis from secondary research related to the topic of PAR. The other important part of this paper is that the author had informal discussions with civil servant staff, engaged in the work on the PAR during the timeframe 2016-2018. This type of evidence helped to understand where and what kind of data should be searched for. The other benefit of such kind of observation was a direct day-to-day communication with domestic Ukrainian actors who were not politicians, but professional civil service staff and communication with “Europeans”, whose work was directed to the support of the PAR implementation. This acquired knowledge defined the way the information should be gathered and analyzed from the following perspectives: *EU, Ukrainian and international*. Particularly stressed in this paper are *domestic factors* with an emphasis on the Public Administration Reform Strategy as well as the political situation in 2016-2018, and *EU-driven factors* with an emphasis on instruments and the framework of EU assistance to Ukraine. Other types of source collections such as interviews were used here as a valuable addition to this research, which reflects the first-hand experience of engaged people.

¹³⁴ Gomm, Roger; Hammersley Martyn (2000): Case Study Method: Key Issues, Key Texts, SAGE Publications, ProQuest Ebook Central, p. 2, <http://ebookcentral.proquest.com/lib/univie/detail.action?docID=3565237> (accessed 13.08.2018)

¹³⁵ Ibid. 3

¹³⁶ Gillham, Bill (2000): Case study research methods, London :Continuum, 2000, p. 1, http://search-ebsohost-com.uaccess.univie.ac.at/login.aspx?direct=true&db=nlebk&AN=330221&site=ehost-live&ebv=EB&ppid=pp_2 (accessed 28.09.2018)

¹³⁷ Ibid. 12

It is important to highlight that there is no single case or norms of public administration neither in Europe nor in the EU. Administrations differs in the ways they are organized, as well as political systems, models of governance or how civil service staff are recruited. The reform of the management of the public administration over the last few decades has not been systematically applied to all countries, focused on different aspects and was launched with varying degrees of urgency.¹³⁸ Hence, there is no single ‘European’ best practice, which could be accommodated or transferred to Ukraine.

3.2. Interviews

See appendix for the interviewee reference. Public administration reform interviewees were involved in the PAR process, worked or observed PAR as of December 2018 and, accordingly, have an expert point of view on the factors which influence the Europeanization of public administration in Ukraine. Interviews have been conducted in person and transcribed by me. The shortest lasted seven minutes and the longest one hour and six minutes. Questions were based on the criteria discussed in the theoretical framework. Questions for interviews reflected opinions on the presence of domestic and external conditions for successful Europeanization.

These interviews helped to see and evaluate the situation in a broader way and played an important role in the analysis of the work. It is important to highlight that all interviewees adhered to the same opinion on the internal and external factors which influence the reform.

3.3. Limitations

The research limits its analysis on factors which trigger and hinder PAR, as well as the influence of EU assistance on the Europeanization of PAR in Ukraine during 2016-2018. This research focuses on two out of three dimensions presented in the theoretical part: *domestic* and *EU influence* with only marginal attention given to the international factors. It is important to highlight that none of the interviewees named any possible influence other than Ukrainian or EU despite the ongoing military conflict with Russia. Assuming that Ukraine is still highly economically dependent on Russia and used until 2014 a strategy based on “*balancing between Brussels and Moscow*”, the possible influence of Russia on the PAR will be ignored here, as during the analysis of data the factor of external pressure from the side of Russia was ignored.

¹³⁸ Brans, Marleen; Coenen, Laurien (2016): The Europeanization of Public Administration teaching, Policy and Society, 35:4, 333-349, p. 334

Disregarded in this thesis is decentralization reform, which is a part of public administration, but as of the years 2016-2018 they have been disconnected and central level reforms have been occurring separately from those on the local level.

Discussing rule selection, rule adoption and rule implementation, mentioned in the theoretical part, PAR has been selected by current high-level Ukrainian politicians and is being highlighted as one of the most important reforms. The issue is that rule adoption and rule implementation is ongoing and further presented is the evaluation of the current state of play and developments during 2016-2018.

4. Analysis of EU conditions for effective Europeanization of public administration in Ukraine

The EU plays an important role in providing incentives and credible conditions for the promotion of its values and practices in third countries. Although, the effectiveness of conditionality is much lower for ENP countries than for CEE and candidate countries. Cost adoption is usually difficult to measure for third countries and since there is no feasible incentive from the EU, *most of the success of implementation depends on domestic actors and the political situation*. Accordingly, this chapter will discuss the following conditions for effective Europeanization:

- 1) EU instruments of Europeanization;
- 2) specific instruments to support public administration reform: the EU policy of conditionality.

This chapter discusses how the EU uses relations with the *Ukrainian bureaucracy as an agent of change* with the use of sectoral cooperation. The bureaucracy negotiated with little political impact the Association agreement, Deep and Comprehensive Free-Trade Area and membership in the Energy Community.¹³⁹

4.1. EU instruments of Europeanization

Since the beginning of EU-Ukraine relations, more precisely from 1992 to 2013, little impact was triggered on support and improvement of the functioning of public institutions in Ukraine. Only since 2014 did the EU begin to support the rebuilding of state institutions.¹⁴⁰ The type of this assistance provided by the EU has changed as well, *from budgetary support and technical assistance*, which mostly was represented by Twinning and TAEX, to *the sector-specific support with a reliance on local knowledge and more coordinated support* from the side of the Support Group for Ukraine (SGUA). SGUA was established as an initiative of the European Commission to support implementation of the AA and DCFTA. Its aim is to ensure that assistance, provided by the EU, is a part of the AA implementation plan and simultaneously corresponds to the Ukrainian reform programme, hence, it enables better donor coordination based on local requests and needs for assistance.¹⁴¹

¹³⁹ Solonenko, Iryna (2010): The EU's 'Transformative Power' towards the Eastern Neighbourhood: the Case of Ukraine. SPES Policy Papers. Berlin: Institut Für Europäische Politik, p. 20

¹⁴⁰ Wolczuk, Katarzyna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 10.10.2018)

¹⁴¹ European Commission: Support Group for Ukraine, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/ukraine/sgua_en (accessed 09.09.2018)

Assistance to third countries, which makes a real impact, was defined as following: “[It] is not so much about exporting ‘best practice’ as about devising sound and feasible solutions that are appropriate to the problems faced by specific institutions in the beneficiary country”.¹⁴²

In order to secure the EU’s influence and improve cooperation with EU external governments, there was created an instrument of European Neighborhood Policy (ENP), which is a joint effort of the EU and its Southern and Eastern neighboring countries for the promotion and development of such spheres and values of democratic society as “*democracy, rule of law, respect for human rights, and social cohesion*”.¹⁴³ As it was stated, the aim of the EU external policy is to “*stabilize the region in political, economic and security terms*”.¹⁴⁴ ‘Partnership’ and ‘ownership’ were outlined as main principles for cooperation with neighboring countries.¹⁴⁵ Priorities for such cooperation are being chosen based on shared interests in specific sectors.

There exist different instruments of cooperation of the EU with neighboring countries:

- 1) Enlargement Policy (prospective members of the Union are: Albania, North Macedonia, Montenegro, Serbia, Turkey, Bosnia and Herzegovina, Kosovo¹⁴⁶);
- 2) European Neighborhood Policy: Southern Neighborhood, Eastern Partnership, Cross Border Cooperation, Neighborhood Wide Cooperation, Sector-specific cooperation.

Bilateral EU-Ukraine relations work through the ENP. It was launched in 2004 and has worked as a “framework to govern EU’s relations with 16 of the EU’s Eastern and Southern Neighbors in order to achieve the closest possible political association and the greatest possible degree of economic integration”.¹⁴⁷ Although the most important incentive of the EU in candidate countries, ‘offer of

¹⁴² Wolczuk, Kataryna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, p. 14, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 09.10.2018)

¹⁴³ European Union External Action Service: European Neighbourhood Policy (ENP), https://eeas.europa.eu/headquarters/headquarters-homepage/330/european-neighbourhood-policy-enp_en (accessed 09.09.2018)

¹⁴⁴ European Commission: European Neighbourhood Policy, https://ec.europa.eu/info/policies/european-neighbourhood-policy_en (accessed 09.09.2018)

¹⁴⁵ EU Neighbours: The European Neighbourhood Policy, <https://www.euneighbours.eu/en/policy#the-european-neighbourhood-policy-enp> (accessed 09.09.2018)

¹⁴⁶ EU Candidate & Potential Candidate Countries' Economic Quarterly (CCEQ) – 4th Quarter 2016, https://ec.europa.eu/info/sites/info/files/tp014_en.pdf (accessed 09.09.2018)

¹⁴⁷ European Union External Action Service: European Neighbourhood Policy (EnP), https://eeas.europa.eu/headquarters/headquarters-homepage/330/european-neighbourhood-policy-enp_en (accessed 09.09.2018)

membership’, is not officially included in ENP.¹⁴⁸ Accordingly, the EU lacks the most important mechanism for its effective governance: membership incentive.

Introduction of the ENP in 2004 was a reaction of European authorities to the biggest enlargement in EU history when 10 countries joined the Union simultaneously. It was decided that a further joining of neighbouring countries should be better structured, so 16 countries were defined as neighbours with different prospects of European integration. Authorities in Ukraine were informed that Ukraine will not become a member neither in the short nor long term, and the fact that Ukraine was defined as a neighbour country sparked a negative reaction in Ukraine.¹⁴⁹

The ideology behind the ENP was to propose to the neighbourhood countries “privileged” relations with the aim to propose to those countries the sharing of common values such as rule of law, good governance, human rights and sustainable development.¹⁵⁰ Also, in order to keep European bordering countries stable, the EU proposed to its neighbours broad participation in different kinds of cooperation in the political, economic, cultural and security spheres.

In the European Security Strategy, which was adopted in 2003, some principles of the development of relations with neighbours were mentioned,¹⁵¹ for example that the enlargement process should not create new dividing lines in Europe. Correspondingly, to promote the better governance principle, the European Commission decided to strengthen efforts in supporting its neighbours through assistance programmes and the applying of conditionality.

The first strategic document regarding the ENP was issued in 2004 and was called the “ENP Strategy Paper”.¹⁵² The document set out the main principles of cooperation with EU partners, namely:

- 1) *Joint ownership*: considering that the ENP is a unilateral initiative of the EU, partner countries jointly with the EU define their common priorities of cooperation based on “shared” values.

¹⁴⁸ Hagemann, Christian (2013): External Governance on the Terms of the Partner? The EU, Russia and the Republic of Moldova in the European Neighbourhood Policy, *Journal of European Integration*, 35:7, 767-783, p. 767

¹⁴⁹ Radio Svoboda, 13 June 2004: European Neighbourhood Policy and Ukraine, <https://www.radiosvoboda.org/a/915627.html> (accessed 09.09.2018)

¹⁵⁰ Commission of the European Communities (2003): Communication from the Commission to the Council and the European Parliament. Wider Europe — Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours, Brussels, 11.3.2003, http://eeas.europa.eu/archives/docs/enp/pdf/pdf/com03_104_en.pdf (accessed 09.09.2018)

¹⁵¹ European Union: European Security Strategy - A Secure Europe in a Better World, <https://europa.eu/globalstrategy/en/european-security-strategy-secure-europe-better-world> (accessed 09.10.2018)

¹⁵² Commission of the European Communities (2004): Communication from the Commission European Neighbourhood Policy, Strategy paper, Brussels, 12.5.2004, [http://www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com\(2004\)0373_/com_com\(2004\)0373_en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com(2004)0373_/com_com(2004)0373_en.pdf) (accessed 09.01.2019)

Thus, the level and degree of cooperation depends on the readiness of the partner country for dialogue, the commitment to common values and the capacity of the partner country to implement complex actions. According to this principle, Belarus was barred from the full and operational cooperation until Belarusian authorities provide fair elections and establish a democratic form of governance. In such cases as Belarus, the EU preferred to concentrate its efforts on civil society support¹⁵³. This approach hasn't changed with time considering large amounts of EU funds are spent yearly for the support of civil society organizations, particularly in Ukraine.¹⁵⁴ It is also worth mentioning that Russia rejected participation in the ENP due to an "insufficient" level of strategic cooperation within the framework of the ENP according to the Russian side.

- 2) *Differentiation*: there should be no unified and single framework for all partner countries. Instead, there are Action Plans agreed with each partner country depending on the set of circumstances such as geographic location, degree of relations with the EU and other neighbours, the political and economic situation within partner countries and relevant developments and reform programs of the partner country.
- 3) *Conditionality* or "positive" conditionality: the principle of incentivization of partner countries for the sharing of common values and joint interests. This principle is also widely used for pre-accession countries, as discussed in the theoretical part of current paper.¹⁵⁵ For this purpose, the EU proposes not only financial means transferred to partner countries, but also access to the EU internal market, participation in different programs and policies etc. The ENP Strategy Paper stated that the EU would provide technical assistance and twinning programs for partners that not only want to cooperate, but also meet EU norms and standards.

In June 2016 the European Union Global Strategy¹⁵⁶ was issued. This document replaced European Security Strategy 2003 and became an updated doctrine of the EU for enhancing its defence, security and *foreign policies*. The priority of EU cooperation with its neighbours according to this document was "*building of the State and Societal Resilience*".¹⁵⁷ The EU will

¹⁵³ European Commission: European Neighbourhood Policy, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview_en (accessed 15.10.2018)

¹⁵⁴ European Commission, 13 September 2014, New EU support for the Civil Society in Ukraine, http://europa.eu/rapid/press-release_IP-14-999_en.htm (accessed 15.10.2018)

¹⁵⁵ Veebel, Viljar (2009): European Union's positive conditionality model in pre-accession process, TRAMES, 2009, 13(63/58), 3, 207–231, http://www.kirj.ee/public/trames_pdf/2009/issue_3/trames-2009-3-207-231.pdf (accessed 15.10.2018)

¹⁵⁶ European Union Global Strategy, June 2016: Shared Vision, Common Action: A Stronger Europe, A Global Strategy for the European Union's Foreign And Security Policy, https://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf (accessed 15.10.2018)

¹⁵⁷ Ibid.

financially, and with the help of other means, support its partners in achieving deep and structural reforms in governmental, economic, societal and climate, energy, and migration policies.

Overall, the ENP went through two major revisions, also in terms of increasing the need of additional support to be provided by the EU to its partners:

1. In 2011, in light of the “Arab spring”, the “*more for more principle*”¹⁵⁸ was introduced for the first time, under which the EU commits to develop stronger partnerships with those neighbours that make more progress towards democratic reforms. In other words, neighbours are rewarded with EU financial and technical support for reform efforts.
2. In 2015¹⁵⁹ in the joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, it was stated that the main priority for the EU in the coming years will be the political, economic and security stabilization of its neighbours. The document stressed that the ENP will consider the interests and needs of the EU and its neighbours, the adherence of neighbours to reforms, the level of partnership ambitions, as well as the geopolitical environment. However, the key principle of the renewed ENP is the enhanced differentiation between partner countries. The ENP has been revised along with the EU Global Strategy and settled as its main political priorities the following: *good governance*, democracy, rule of law and human rights; economic development for stabilization; security ; and migration and mobility.¹⁶⁰

4.1.1. European Neighbourhood Policy instruments

The main political document, which defines the framework for all spheres of cooperation between the EU and Ukraine, is the “Association Agreement (AA) between the European Union and its Member States, from the one part, and Ukraine, from the other part”.¹⁶¹ The document has a long history of drafting and discussions. It has been the main incentive for Ukraine to implement undertaken commitments with the EU. However, the AA preceded the “Partnership and Co-operation Agreement (PCA) between the European communities and their member states, and Ukraine”, which

¹⁵⁸ European Commission, 19 March 2013: European Neighbourhood Policy (ENP) - Fact Sheet, http://europa.eu/rapid/press-release_MEMO-13-236_en.htm (accessed 15.10.2018)

¹⁵⁹ Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Review of the European Neighborhood Policy, Brussels, 18.11.2015, http://eeas.europa.eu/archives/docs/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf (accessed 09.09.2018)

¹⁶⁰ European Union External Action Service: European Neighbourhood Policy (ENP), https://eeas.europa.eu/diplomatic-network/european-neighbourhood-policy-enp/330/european-neighbourhood-policy-enp_en (accessed 09.09.2018)

¹⁶¹ Mission of Ukraine to the European Union: EU-Ukraine Association Agreement – the complete texts, <https://ukraine-eu.mfa.gov.ua/en/page/open/id/2900> (accessed 15.01.2019)

came into force in 1998 and was set to expire in 2008, hence the parties had to extend its duration every year. The refusal to sign the agreed text of the AA by ex-president V. Yanukovich sparked mass protests in Kyiv in November 2013.¹⁶² The Agreement was signed in March 2014 after Yanukovich fled to Russia¹⁶³, and after ratification by the Netherlands, the Agreement finally came into full force on 1 September 2017.¹⁶⁴

For the purposes of financing common ENP initiatives, the European Neighbourhood and Partnership Instrument (ENPI)¹⁶⁵ was introduced in 2007. The ENPI replaced such geographical programs as the TACIS, MEDA and PHARE.

To better focus financial resources on strategic priorities of cooperation on the national level, the EU together with partner countries developed Country Strategy Papers and National Indicative Programmes.

The Country Strategy Paper for Ukraine was developed for the period of 2007-2013,¹⁶⁶ and there were two multi-annual National Indicative Programmes for bilateral assistance to Ukraine – for 2007-2010 and 2011-2013.¹⁶⁷

The first National Indicative Programme for Ukraine for 2007-2010 was focused on three priority areas of support: 1) Support for Democratic Development and Good Governance; 2) Support for Regulatory Reform and Administrative Capacity Building; and 3) Support for Infrastructure Development. The total amount of commitments on the European side was 493 million euros.¹⁶⁸

The second National Indicative Programme for Ukraine for 2011-2013 focused on the following priorities: 1) Good Governance and the Rule of Law; 2) Facilitation of the entry into force of the EU-

¹⁶² BBC, 30 November 2013: Ukraine protests after Yanukovich EU deal rejection, <https://www.bbc.com/news/world-europe-25162563> (accessed 15.01.2019)

¹⁶³ Cabinet of Ministers of Ukraine, 21 March 2014: A. Yatseniuk: Signing political part of Association Agreement is important first step towards full Ukraine's membership in EU, <https://www.kmu.gov.ua/en/news/247126953> (accessed 15.01.2019)

¹⁶⁴ Delegation of the European Union to Ukraine, 28 July 2017: The EU-Ukraine Association Agreement enters into force on 1 September 2017, https://eeas.europa.eu/delegations/ukraine/30478/eu-ukraine-association-agreement-enters-force-1-september-2017_en (accessed 15.01.2019)

¹⁶⁵ European Commission: European Neighbourhood and Partnership Instrument (ENPI), https://ec.europa.eu/europeaid/tags/european-neighbourhood-and-partnership-instrument-enpi-0_en (accessed 15.10.2018)

¹⁶⁶ European Commission: European Neighbourhood and Partnership Instrument, Ukraine. Country Strategy Paper 2007-2013, https://ec.europa.eu/europeaid/sites/devco/files/csp-ukraine-2007-2013_en.pdf (accessed 15.10.2018)

¹⁶⁷ ¹⁶⁷ European Union External Action Service: European Neighbourhood and Partnership Instrument. Ukraine, National Indicative Programme 2011-2013, http://eeas.europa.eu/archives/docs/enp/pdf/pdf/country/2011_enpi_nip_ukraine_en.pdf (accessed 15.10.2018)

¹⁶⁸ Ibid.

Ukraine Association Agreement (including a Deep and Comprehensive Free Trade Area); and 3) Sustainable Development. The total Indicative ENPI allocations for the period of 2011-2013 for Ukraine amounted to 470 million euros.

The European Neighbourhood Instrument was introduced in 2014, and it was developed according to lessons learned from the implementation of the ENPI and foresaw 15.4 billion euros for the period of 2014-2020 for all partner countries.

Due to hard and unpredictable circumstances and continuous conflict in the East, there was no strategic document for Ukraine which could indicate amounts of funds to be provided by EU for the support of Ukraine country development priorities until 2017,¹⁶⁹ but such a document was introduced in 2017 in the form of the Single Support Framework for Ukraine.¹⁷⁰

The Eastern Partnership initiatives were funded from the general fund of the ENPI and foresaw 600 million euros for 2009-2013.

The declaration of the ENP by the EU sparked controversial and, in some cases, negative reactions among the Ukrainian establishment and expert community. Partially it was a reaction to different publications of Western experts of that time regarding the importance and place of Ukraine in EU policy. For example, William Wallace, a British expert on international relations, stated that Ukraine is one of the Eastern European neighbours, and that attention to the country should be paid only within the context of EU foreign policy.¹⁷¹ Such perception of Ukraine's aspirations towards the European Union was in contrast with the internal political situation in Ukraine, where one of the candidates for president and also the President V. Yushchenko were greatly promoting an integration of Ukraine with the EU, and they were supported by Western countries.¹⁷² Despite such political declarations, the Ukrainian establishment clearly understood that Ukraine was not ready for broader cooperation with the EU due to weak economic reforms and constant decline of good governance standards. In addition, there was not a clear and defined "Roadmap" for the integration of Ukraine into EU structures and dimensions. In 2005, the Ukrainian Government adopted the ENP EU-Ukraine Action

¹⁶⁹ European Commission: Ukraine, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/ukraine_en (accessed 15.10.2018)

¹⁷⁰ Ministry of Economic Development and Trade of Ukraine: Single Support Framework for EU support to Ukraine (2018-2020), <http://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=ee30f7bc-1296-4d1f-814d-f08704f29b1d&title=SingleSupportFrameworkForEuSupportToUkraine-2018-2020-> (accessed 15.10.2018)

¹⁷¹ Delcour, Laure (2007): Does the European Neighbourhood Policy Make a Difference? Policy Patterns and Reception in Ukraine and Russia, in *European Political Economy Review*, No. 7 (Summer 2007), 118-155, https://www.researchgate.net/publication/23777156_Does_the_European_Neighbourhood_Policy_Make_a_Difference_Policy_Patterns_and_Reception_in_Ukraine_and_Russia (accessed 15.10.2018)

¹⁷² Korrespondent, 23 February 2005: Yushchenko: Ukraine will not stop on the way to European integration, <https://ua.korrespondent.net/ukraine/253985-yushchenko-ukrayina-ne-zupinitsya-na-shlyahu-evrointegraciyi> (accessed 09.09.2018)

Plan,¹⁷³ which was rather a set of commitments than a strategic document with clearly defined tasks, deadlines and performance indicators.

In 2009 A specific dimension of the ENP was introduced to the Eastern Partnership, and a big part of EU-Ukraine cooperation was centred around that initiative.

Together with the EaP, in 2015 a review of new priorities of EU-Ukraine cooperation arose, namely¹⁷⁴:

- 1) Implementation of the EU-Ukraine Association Agreement and DCTFA as well as EU financial and technical support for this purpose;
- 2) Energy security of Ukraine and stability of the EU gas supply and transport systems;
- 3) Mitigation of the consequences of the conflict in Eastern Ukraine.

The ENP initially had two directions of cooperation: Eastern and Southern. The Eastern direction encompasses six post-Soviet countries: Ukraine, Belarus, Moldova, Azerbaijan, Georgia and Armenia, and the Southern Neighbourhood ten Mediterranean countries – Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria and Tunisia.¹⁷⁵

In 2008 the Eastern Partnership was presented to the initiative of Poland and Sweden– the prolongation of the ENP with a special focus on the Eastern dimension. The Eastern Partnership initiative did not foresee any prospects of joining the EU for “partner” countries. In addition, some constraints were put on partnership with Belarus due to its “dictatorship”, according to statements of EU officials and authorities.

According to the official statement of the Ministry of Foreign Affairs of Ukraine, the country considers the Eastern Partnership not as a framework policy, which regulates EU-Ukraine relations, but as an addition to EU-Ukraine relations in a bilateral format.¹⁷⁶ Ukrainian authorities give the priority to the development of bilateral relations with the EU while the EP is considered primarily as a forum for multilateral dialogue on the implementation of reforms and relations with the EU.

¹⁷³ Verkhovna Rada of Ukraine: Action Plan “Ukraine – EU”, http://zakon.rada.gov.ua/laws/show/994_693 (accessed 09.09.2018)

¹⁷⁴ Європейська правда, 18 November 2015: Individual neighborhoods - EU revises policy of relations with countries in the region, <https://www.eurointegration.com.ua/articles/2015/11/18/7040958> (accessed 09.09.2018)

¹⁷⁵ European Commission: Southern Neighbourhood, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood_en (accessed 09.09.2018)

¹⁷⁶ Mission of Ukraine to the European Union: Eastern Partnership <https://ukraine-eu.mfa.gov.ua/ua/ukraine-eu/eu-policy/east-partnership> (accessed 15.10.2018)

On the level of multilateral dialogue, the EU cooperates with Ukraine through the following platforms:¹⁷⁷

- 1) Summits with the participation of heads of EU member-states and their partners, which are held once every two years. The last summit was held in November 2017 and was not successful for Ukraine because of the high critique from the heads of EU member-states regarding the insufficient efforts of the Ukrainian authorities in fighting corruption.¹⁷⁸
- 2) Meetings of the Ministers of Foreign Affairs of EU member-states and their partners, which are held once a year in Brussels.
- 3) Thematic Platforms of the Eastern Partnership that allow information sharing between partner countries on reforms and institutional changes. As of 2018 the main thematic platforms are devoted to issues of good governance and stability, economic integration and convergence with EU policies, energy security, etc.

The important part of ENPI and ENI implementation is the Cross-Border cooperation programs (CBC).¹⁷⁹ Such programs have been used since the beginning of ENPI implementation and are planned until 2020. The ideology behind the introduction of CBC programs was not to allow the creation of new cultural and regional lines within EU borders due to the enlargement in 2004.

Very often Ukrainian experts point out that the implementation of CBC programs in Ukraine is met with huge obstacles due to the difficult process of initiating projects under the programs and the low level of activity from representatives of local authorities.¹⁸⁰

Public administration reform (PAR) in Neighbourhood East is one of the key priorities for Armenia, Georgia, Moldova and Ukraine in the ENI Single Support Framework 2014-20 and is based on national frameworks:

- 1) Armenia: Baseline assessment (2018)
- 2) Georgia: PAR Roadmap, PAR SBS
- 3) Moldova: SIGMA baseline assessment in 2015, PAR strategy

¹⁷⁷ Cabinet of Ministers of Ukraine: Eastern Partnership, <https://www.kmu.gov.ua/ua/diyalnist/yevropejska-integraciya/shidne-partnerstvo> (accessed 15.10.2018)

¹⁷⁸ Evropejska Pravda, 24 November 2017: Summit of Frustrations: How Petro Poroshenko came to Brussels for a Portion of criticism, <https://www.eurointegration.com.ua/articles/2017/11/24/7074111/> (accessed 15.10.2018)

¹⁷⁹ European Commission: Cross Border Cooperation, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/cross-border-cooperation_en (accessed 15.10.2018)

¹⁸⁰ Evropejska Pravda, Tetiana Zosymenko, 16 August 2018: EU Cross-Border Cooperation Projects: Why are they Ineffective in Ukraine, <https://www.eurointegration.com.ua/experts/2018/08/16/7085038> (accessed 15.10.2018)

4) Ukraine: PAR strategy, PAR SBS, SIGMA baseline assessment (2018), policy dialogue.¹⁸¹

To sum up, the EU has drastically evolved in its foreign policy development, especially with regard to neighboring countries. It uses various models and instruments in combination to achieve better results, though there is still space for improvement. With the instrument the EU developed and uses daily, it is possible to influence third countries in a soft way, providing a platform for social learning and socialization for technical civil service staff members.

4.1.2. Framework and scope of EU-Ukraine development cooperation

The EU assists Ukraine through different programs and mechanisms: technical assistance, budget support, macro-financial support, grants etc. In 2014, the EU foresaw the provision of 12.8 billion EUR for financing different programs and projects.¹⁸² The biggest part of the aid package was in the form of loans on terms preferable for Ukraine amounting to 3.4 billion EUR as micro-financial assistance, approximately 6.5 billion EUR of investments from EBRD and EIB, and other funds intended for grants.

The Legal basis in the sphere of assistance and aid (financial, technical etc.) between the EU and Ukraine was established in the “Framework agreement between the Government of Ukraine and Commission of European Communities” concluded in 2006 and ratified further in 2009.¹⁸³ The agreement stated that Ukraine is a country that meets the necessary requirements and can be a recipient of EU external aid. According to the rules set up in this framework agreement, in 2016 alone *11* new financial cooperation agreements were signed,¹⁸⁴ in particular an Agreement to support the reform of Public Administration in Ukraine.¹⁸⁵ The agreement has two components: *budget support amounting to 90 million EUR and technical assistance amounting to 14 million euro.*

Due to the unstable and unpredictable situation in Ukraine, there was not a single EU document which defined strategic priorities of assistance to Ukraine since 2014. Only in 2017, the EU decided to return

¹⁸¹ Brunet, Bernard, 16 November 2017: The new approach on PAR and its use by the European Commission, <http://sigmaweb.org/events/Ukraine-16-11-17-PPT-B-Brunet-EC-ENG.pdf> (accessed 15.10.2018)

¹⁸² European Union External Action Service, 17 December 2018: EU-Ukraine relations, factsheet, https://eeas.europa.eu/headquarters/headquarters-homepage/4081/node/4081_en (accessed 15.01.2019)

¹⁸³ Verkhovna Rada of Ukraine: Framework Agreement between the Government of Ukraine and the Commission of the European Communities 27 October 2006 (in force since 06 January 2009), http://zakon4.rada.gov.ua/laws/show/994_763 (accessed 15.01.2019)

¹⁸⁴ Ministry of Economic Development and trade of Ukraine: International agreements and regulatory framework, <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=650f519c-86c9-4c89-a9d3-587ac65271b7&tag=MizhnarodniUgodiTaNormativnopravovaBaza-> (accessed 15.01.2019)

¹⁸⁵ Government of Ukraine: On signing of the Agreement on financing of the program “Support to integrated reform of public administration in Ukraine”, <https://www.kmu.gov.ua/ua/npas/249622217> (accessed 15.01.2019)

to a programmatic approach. The New strategic framework document for 2018-2020 – “Single Support Framework” was adopted at the end of 2017.¹⁸⁶ It is planned that the total amount of assistance for 2018-2020 can be up to 430-530 ml EUR, which will be provided under the “More for more” principle, therefore depending on the progress of the Ukrainian side in implementing the necessary reforms. This document identifies four strategic sectors related to the Governmental plans of reform in Ukraine, and one of the sectors is “Strengthening institutions and good governance, including in the area of the rule of law and security”, which includes a PAR component.

In EU-Ukraine dialog on reforms and development, the *Support Group for Ukraine (SGU)* plays an important role. It was created as an initiative of the President of the European Commission in April 2014.¹⁸⁷ The SGU consists of about 30 representatives from different directorates of the European Commission based in Brussels who visit Ukraine on a periodic basis. The SGU’s purpose is to support Ukraine in Association Agreement implementation. It assures coordination of assistance from EU Member States by overseeing that advisory and financial assistance focuses on the timely provisions of the Association Agenda. The support team also works with other donors and international financial institutions to coordinate aid to Ukraine.

During the *second Ukraine Reform Conference in Copenhagen*, which took place in June 2018, Federica Mogherini, High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the European Commission, underlined that Ukraine has made considerable progress in implementing the reform agenda over the last four years.¹⁸⁸ The main part of the reforms is implemented within the framework of the Association Agreement. The Government and other state bodies achieved a lot in the spheres of energy and public administration, according to an assessment by the European side.

The support of international partners accelerated the reform implementation process, and the EU role in this support was essential. In terms of the amount of provided funds, only the United States provided more financial support than EU, which provided around 370 million USD per year compared with 310 million USD of EU assistance per year.¹⁸⁹ In addition, the EU plays a vital role in political

¹⁸⁶ Ministry of Economic Development and trade of Ukraine: Single Support Framework for EU support to Ukraine (2018-2020), <http://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=ee30f7bc-1296-4d1f-814d-f08704f29b1d&title=SingleSupportFrameworkForEuSupportToUkraine-2018-2020-> (accessed 15.01.2019)

¹⁸⁷ European Commission: Support Group for Ukraine, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/ukraine/sgua_en (accessed 27.01.2019)

¹⁸⁸ European Union External Action Service, 27 June 2018: “Ukraine Reform Conference - A Driver for Change”, remarks by HR/VP Mogherini, https://eeas.europa.eu/headquarters/headquarters-homepage/47496/ukraine-reform-conference-driver-change-remarks-hrvp-mogherini_en (accessed 27.01.2019)

¹⁸⁹ Ministry of Economic Development and trade of Ukraine: Reference materials, <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=df3cf74d-8f6d-44a6-9a9b-e3f154886de1&tag=InformatsiinodovidkoviMateriali> (accessed on 13.09.2018)

support of the Ukrainian reform agenda: in 2014 the Support Group of Ukraine (SGU) was created, one of the main tasks of which is to mobilize EU Member states and the support of International Financial Organizations (IFIs)¹⁹⁰ Ukrainian reform advisors, especially members of the Support Group for Ukraine¹⁹¹ considered PAR reform as key to all other state reforms. Overall, public administration reform in Ukraine can be considered as the driven by enthusiastic civil servants and enhanced by EU assistance.

4.2. Specific conditions to support public administration reform: the EU policy of conditionality

As a settled practice, and to make conditionality more credible, the EU suggests not only *financial support, but also sectoral cooperation, access to the EU market, common programmes etc.* A set of rules for conditions must be clear and coherent with incentives for their implementation, as well as a result tracking and monitoring mechanism. Likewise, the EU has all of this in place.

The EU mostly uses soft power in its neighborhood, namely *lesson-drawing* and *social learning models*, which are rather less impactful than *conditionality*, which worked magnificently for CEE countries. These countries had economies in transition; however, the strong incentive of EU membership played a significant role for politicians in undertaking all the necessary transformations for accession. The EU membership incentive is absent for Ukraine. Hence, most of the transformations in Ukraine, which were declared by Ukraine, are assumed to be made by its own initiative.

The case of public administration reform showed that the EU uses the SIGMA principle, which is in place not only in EU countries, which makes their implementation more attractive for third countries, as was shown by the structuring of the Public Administration Reform Strategy through 2021. To externally assist implementation of public administration reform, the EU uses the following instruments: *technical support, budget support and macro financial assistance*. These instruments include an established set of conditions to be implemented, monitoring and evaluation of achieved results and budget support as an incentive for further reformation, which could be considered as a policy of *conditionality*.

¹⁹⁰ European Commission: Support Group for Ukraine, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/ukraine/sgua_en (accessed 27.01.2019)

¹⁹¹ EU Neighbors East, 18 May 2017: EU Support Group helps Ukraine with public administration reforms, <https://www.euneighbours.eu/en/east/stay-informed/news/eu-support-group-helps-ukraine-public-administration-reforms> (accessed 27.01.2019)

EU politics of conditionality are in place in the case of implementation of public administration reform; however, they have a rather formal character and do not really influence the decision-making process in Ukraine. The reform has begun with the Ukrainian initiative to build public administration reform strategy based on the principles created by SIGMA of good governance.¹⁹²

4.2.1. OECD SIGMA

The SIGMA Programme (Support for Improvement in Governance and Management)¹⁹³ is a joint initiative of the EU and OECD aimed at strengthening public administration, enhancing the institutional capacity of the state sector, improving the “horizontal” administration, etc. in the countries with economies in transition. Overall, the EU as an institution and other European countries like Norway use OECD tools to help Ukraine in transforming.

Effective and efficient public administration is a component of the ‘effective governance’ requirement of the Association Agreement. Public administration regulations differ depending on the type of the government, its system and so on. *Principles of public administration* have been established by SIGMA (Support for Improvement in Governance and Management), which is a joint initiative of the OECD and the EU. In 2014, the European Commission defined the substantial parts of PAR as six core areas: strategic framework for public administration reform, policy development and co-ordination, public service and human resource management, accountability, service delivery, and public financial management.¹⁹⁴ These are generic principles and they consist of other sub-principles, which are stated in the SIGMA PAR Principles.¹⁹⁵

The framework of SIGMA is structured as follows:

- 1) 17 key requirements that outline general characteristics of good public administration;
- 2) 48 Principles grouped under the key requirements and focused on:
 - implementation and performance of the system in practice,
 - evidence-based monitoring.

¹⁹² International expert of the EU funded project: “Support to Comprehensive Reform of Public Administration in Ukraine”

¹⁹³ SIGMA, <http://www.sigmaweb.org/about> (accessed on 13.09.2018)

¹⁹⁴ SIGMA: Principles of Public Administration, <http://www.sigmaweb.org/publications/principles-public-administration.htm> (accessed 23.10.2018)

¹⁹⁵ SIGMA: The Principles of Public Administration, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf (accessed 23.10.2018)

- 3) Sub-principles, defining more precisely the components that need to be in place;
- 4) An analytical framework, describing how the Principles can be followed in practice and progress measured, using qualitative and quantitative indicators.¹⁹⁶

Democratic governance, represented by the SIGMA principles, focuses not on the change of state institutions, but on the change of rules and practices of individual policy sectors. Hence, the likelihood of rules transfer raises as the democratic governance elements are being adopted.¹⁹⁷ The SIGMA principles have no political aspect as they are about the work of government itself as well as its effectiveness in policy analysis, decision-making, policy implementation, accountability, etc. SIGMA provided a report on public administration issues in Ukraine, which complied with the principles of good governance.

Ukraine underwent a SIGMA public administration assessment as a part of *EU technical support*. In September 2018, a SIGMA review was presented which was based on the methodology and indicators developed for EU enlargement candidate countries and potential candidates. These criteria are more comprehensive compared to those used for ENP countries.¹⁹⁸ The methodology and reports are also being used to track the progress of public administration reforms in the countries with economies in transition as well as to further support of gradual improvement with the alignment of common European values outlined in the Association Agreement.

Current public administration reform support represents a mix of reforms and policy implementation in Ukraine.¹⁹⁹ At the same time, as an international expert from an EU-funded project stated in the interview, the EU has no defined criteria on what public administration reform is except for SIGMA criteria. The EU as a third party is suitable to promote its values on a political level, as well as with technical and expert assistance, but it has no roadmap on every detail and element to be improved in a third country. The power to decide on what is needed to implement remains a prerogative of national authorities.²⁰⁰ Since OECD member states are very different in their own public administrations, there

¹⁹⁶ Hill, Karen, 16 November 2017: The Principles of Public Administration: Why everyone is talking about them!, presentation, <http://sigmaweb.org/events/Ukraine-16-11-17-PPT-K-Hill-SIGMA-ENG.pdf> (accessed on 13.09.2018)

¹⁹⁷ Freyburg Tina; Lavenex, Sandra; Schimmelfennig, Frank; Skripka, Tatiana; Wetzel, Anne (2009): EU Promotion of Democratic Governance in the Neighbourhood, *Journal of European Public Policy*, 16:6, 916-934, p. 918

¹⁹⁸ OECD/SIGMA (2018): Baseline Measurement Report: The Principles of Public Administration, Ukraine June 2018, <https://www.kmu.gov.ua/storage/app/media/17-presentation-2018/06.2018/ukraine-baseline-measurement-report-2018-1.pdf> (accessed on 13.09.2018)

¹⁹⁹ Wolczuk, Kataryna; Žeruolis, Darius (2018): Rebuilding Ukraine: An Assessment of EU Assistance, Chatham House, p. 17, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed on 13.09.2018)

²⁰⁰ Team Leader of the EU funded project “Support to Comprehensive Reform of Public Administration in Ukraine”

is nothing like ‘best practice’ to find in one country. SIGMA criteria were taken from Western European states, as well as CEE countries and each of them has its strong and weak sides. Hence, no country has an ideal type of administration, as they all have their own weaknesses and strengths due to their customs and political culture.

Institutional capacity state-by-state could be evaluated through the Global Competitiveness Index,²⁰¹ which ranked the effectiveness of Ukrainian institutions and is the first pillar out of twelve in this index, placing *118 out of 137*. As is visible from the index, the quality of institutions does not represent the level of democracy in the country. In the top 10 of this index are both Western European states as well as states such as Singapore and Qatar, whose governance models are far from democratic.

The last visit of the SIGMA/OECD Fact-Finding Mission on Assessment on Public Administration took place in February 2018 and the final report was released in June 2018.²⁰² Before this, SIGMA evaluated public governance in 2006, two years after the Orange revolution. SIGMA’s report²⁰³ has become a valuable part of the update of the Public Administration Reform Strategy 2016-2020 (PARS)²⁰⁴ as well as a further update and implementation of the related document Concept of Optimization of the System of Central Executive Bodies.²⁰⁵

As assessed by SIGMA, public administration in Ukraine is on the level of EU potential candidate countries and is making significant steps towards modernization despite external threats and corruption.²⁰⁶ However, Ukraine still has much to improve in its technically outdated system of public administration, and obsolete methods of policy-making, which promotes corruption and hinders citizens’ trust in its institutions. With this in mind, officials of Ukraine took the course to implement

²⁰¹ World Economic Forum: The Global Competitiveness Report 2017–2018, <https://www.weforum.org/reports/the-global-competitiveness-report-2017-2018> (accessed 15.10.2018)

²⁰² Center for Adaptation of the Civil Service to the Standards of the European Union: OECD/SIGMA Programme Fact-Finding Mission on Assessment on Public Administration in Ukraine, <http://www.center.gov.ua/en/press-center/news/item/2916-oecd-sigma-programme-fact-finding-mission-on-assessment-on-public-administration-in-ukraine> (accessed 10.10.2018)

²⁰³ SIGMA: Ukraine and SIGMA, <http://www.sigmaweb.org/countries/ukraine-sigma.htm> (accessed 10.10.2018)

²⁰⁴ Government of Ukraine: Some issues of reforming the state administration of Ukraine, <https://www.kmu.gov.ua/ua/npas/249175778> (accessed 10.10.2018)

²⁰⁵ Government of Ukraine: On Approval of the Concept of Optimization of the System of Central Executive Bodies, <https://www.kmu.gov.ua/ua/npas/pro-shvalennya-koncepciyi-optimiz> (accessed 10.10.2018)

²⁰⁶ Cabinet of Ministers of Ukraine, 3 July 2018: SIGMA experts praised the implementation of public administration reform in Ukraine, <https://www.kmu.gov.ua/en/news/specialisti-programi-sigma-visoko-ocinili-proces-reformi-derzhavnogo-upravlinnya-v-ukrayini> (accessed 13.03.2019)

necessary changes and rebuild modern and accountable public management according to the SIGMA principles.

4.2.2. Technical support

Technical assistance was predominant in the 1990th and 2000th, but later it was recognized that this form of support should not be prevalent as it has shown to be insufficient. Since 2008 the EU represented its budgetary support for “policies, not projects”, which failed as well as the institutional capacity was too low to absorb the provided assistance.²⁰⁷ The EU is one of the largest donors in Ukraine in financing technical assistance and the largest donor according to the OECD in providing official development assistance.²⁰⁸ It provides support in many areas, which primarily reflect the priorities identified in the separate sections of the Association Agreement as well as in the Ukraine-EU Association Agenda. In the second half of 2017, 153 EU technical assistance projects were implemented in Ukraine (totaling around 300 million EUR). These projects are implemented through national and regional EU assistance programs, border cooperation programs, the Erasmus+ educational program, the Instrument for Stability and Peace and the Instrument for nuclear safety.

According to information on the website of the Ministry of Economy Development and Trade of Ukraine, which is a main body responsible for donor coordination in the country, in the second half of 2017 the EU financed 17 projects in the sphere of public administration totaling 73 million dollars²⁰⁹. These projects are aimed at analysis of administrative structures, development and implementation of administrative system reforms, analysis of relevant laws and draft laws, organization of trainings and information exchange.

A special form of assistance comes via Twinning/TAIEX projects, when specialists from relevant bodies of EU member states provide technical assistance to Ukraine state bodies. Under the Twinning project, the recipient state body chooses the body of an EU member state, and civil servants from such bodies assist in strengthening the recipient’s institutional capacity²¹⁰.

In the sphere of public administration, and with the support of direct donors, the National reform council was created, which is an advisory body under the President of Ukraine, as well as the Strategic

²⁵² Wolczuk, Kataryna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, Chathan House, p. 16, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 10.10.2018)

²⁰⁸ OECD: Aid at a glance charts, <http://www.oecd.org/countries/ukraine/aid-at-a-glance.htm> (accessed 29.01.2019)

²⁰⁹ Ministry of Economic Development and trade of Ukraine: reference materials, <http://www.me.gov.ua/Documents/List?lang=uk-UA&id=df3cf74d-8f6d-44a6-9a9b-e3f154886de1&tag=InformatsiinoDovidkoviMateriali> (accessed on 13.09.2018)

²¹⁰ European Commission: Twinning, https://ec.europa.eu/neighbourhood-enlargement/tenders/twinning_en (accessed on 13.09.2018)

Group of Advisors under the Cabinet of Ministers. Since 2016 Reform Support Teams (RST) were established within the framework of PAR, employees of which are not civil servants and are considered to be reform specialists with competitive salaries. The activities of these teams are financed by EBRD. The main idea for the creation of such teams was an understanding from the donors' side that institutional capacity must be gained before the implementation of reforms in all spheres of public administration. Such teams were created in the "biggest" ministries, according to the scope of their responsibility: the Ministry of Finance, the Ministry of Economy and Trade, the Ministry for Regional Development, the Ministry of Agriculture etc.

Limits of technical assistance become evident in short-term projects, which target weak institutions. This targeting shows that technical transport of a 'best practice' from any of the EU states is not enough without an understanding of local traditions and bureaucratic procedures. Moreover, some projects are being implemented without prior assessment of the current needs of the institution. The other issue is that such projects result in brain drain, when inadequately paid civil servants migrate to such projects to provide 'local expertise'.²¹¹

The technical support project "Support to Comprehensive Reform of Public Administration in Ukraine" was initiated in 2017. The total value of the project is 5249000 EUR, and specialists from the project will be supporting Ukrainian civil servants until 2022 in implementation/review of the PAR Strategy. This project is a classic example of a "Service contract", when support is provided only through advising and knowledge sharing with recipients. In this particular case, the direct beneficiaries are state bodies and civil servants, primarily working in the Secretariat of Cabinet of Ministers. However this project started only in the beginning of 2018, which made 2017 and some of 2018 not especially active in achieving PAR targets.²¹² The project is aimed at improving management, coordination, monitoring and reporting in the framework of the Public Administration Reform, which includes, inter alia, coordination of donor support and institutional capacity building of public institutions and consists of the following components:

- support of the development of strategic plans and government policies;
- development of a human resources management system within the framework of the implementation of the Civil Service Law;
- improvement of the organization of the Government and its ministries;
- improvement of administrative procedures;

²¹¹ Wolczuk, Kataryna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, Chatham House, p. 21, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 15.10.2018)

²¹² International expert of the EU funded project "Support to the implementation of the EU-Ukraine Association Agreement"

- reducing the administrative burden and introducing e-governance.

Even though the Agreement on the financing of the project was signed in 2016, the experts of the project started their activities only in 2018 due to the lengthy Terms of Reference approval process and tender procedures.

The technical assistance, namely the financing of the public administration reform support project, is not a part of conditionality, but is rather a social learning tool for civil servants who have to technically implement the objectives of reform.

4.2.3. Budget support

To receive budget support, the partner country must meet several criteria, including the availability of a reform program, a stable macroeconomic situation, a proper public finance management system, transparency and control over the implementation of the budget. Budget support is provided on a non-refundable basis, but funds are usually provided for spending in a particular area, rather than for general budget purposes. In this case, as a rule, the first tranche of assistance (the basic component) comes after signing the financing agreement for the start of the program implementation, and for the receipt of other tranches (the variable component), the country must fulfil the goals agreed between the government and the EU during the negotiation of the support.²¹³ The average duration of a budget support program is three to four years. Funds are allocated based on conditions for specific tranches.²¹⁴

Country fiscal year	2016	2018				2019				2020				2021				Total
Type of tranche	Q4	Q 1	Q 2	Q 3	Q 4	Q1	Q 2	Q 3	Q 4	Q 1	Q 2	Q 3	Q 4	Q 1	Q 2	Q 3	Q 4	EUR million
Fixed tranche	10	5				5				5				5				30
Variable tranche		15				15				15				15				60
TOTAL	10	20				90												

Table 3: Budget support structure, retrieved from Action Document for the Support to Comprehensive Reform of Public Administration Ukraine, p. 24

Almost immediately after the Cabinet of Ministers of Ukraine signed the AA with the EU, the European Commission decided to provide Ukraine with 355 ml EUR to support the country’s reforms, the commitment to which was voiced by the highest representatives of public authorities. The “State

²¹³ See Table 3

²¹⁴ European Commission: Tools and Methods Series, Budget Support Guidelines, September 2017, https://ec.europa.eu/europeaid/sites/devco/files/bsg_web_version_20180206-v2_1.pdf (accessed 15.10.2018)

building contract”²¹⁵ for provision of funds was signed in May 2014, where funds were disbursed only upon achievement of previously defined indicators. The major part of the contract was related to commitments from the Ukrainian side to start implementing major reforms in the sphere of public administration, local governance, public finance management and the state procurement system and public services.

In 2016, the European Commission, in a form of the Special Measure,²¹⁶ decided to provide 104 million EUR for public administration reform in Ukraine. The program aims to support Ukraine in implementing a comprehensive Strategy for Public Administration Reform from 2016-2020, covering the core functions of the governance system in accordance with the Principles of Public Administration developed by the OECD/SIGMA in close cooperation with the European Commission. According to the agreement between Ukraine and the European Commission, *90 million EUR will be disbursed for 72 months*²¹⁷ upon fulfilment of the previously agreed upon tasks, such as increasing the professionalism, effectiveness and political neutrality of the civil service; improving accountability of public administration; improving the quality and accessibility of public service delivery, etc. The tranches disbursement process consists of two components: ‘fixed tranche’, where Ukraine receives the agreed amount (10 million for 2016 and 5 million per each next year) for the PAR reform itself, and ‘variable tranche’, where the government of Ukraine receives funds upon the achievement of negotiated indicators. In August 2018 Ukraine received 15,5 million EUR from a maximum of 20 million EUR possible under this program where 5 million was a part of a second fixed tranche and 15,5 was based on achieved results²¹⁸. Indicators for 2017 were chosen in compliance with legal strategic PAR documents. As such, the EU marked the indicator for a “comprehensive and realistic policy framework for reorganization of public administration” as “no compliance”.

This type of assistance has a clear link to *EU conditionality*, with the usage of external incentives and bargaining power. The negotiations on the chosen indicators happen based on bargaining when the

²¹⁵ Government of Ukraine: Order on the signing of the Financing Agreement (Contract for Ukraine for the development of the state), <https://www.kmu.gov.ua/ua/npas/247287069> (accessed 15.10.2018)

²¹⁶ European Commission: ANNEX 1 of the Commission Implementing Decision on the Special Measure 2016 for Public Administration Reform in favor of Ukraine Action Document for the Support to Comprehensive Reform of Public Administration Ukraine, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni_2016_sm_ii_ad_039569.pdf (accessed 15.10.2018)

²¹⁷ Verkhovna Rada of Ukraine: Financing agreement, http://zakon.rada.gov.ua/laws/show/984_002-16 (accessed 15.10.2018)

²¹⁸ Government of Ukraine: Through the implementation of the tasks of public administration reform Ukraine has received the next tranche from the EU target - Alexander Saenko, <https://www.kmu.gov.ua/ua/news/zavdyaki-vikonannyu-zavdan-z-reformi-derzhavnogo-upravlinnya-ukrayina-otrimala-chergovij-cilovij-transh-vid-yes-oleksandr-sayenko> (accessed 15.10.2018)

EU requests certain indicators to be fulfilled and government representatives, responsible for PAR, communicate with other involved institutions regarding whether these goals would be achievable.

Therefore, budget support, which amounts to a maximum of 90 million EUR divided over four years with the possibility of reduced support, is a symbolic gesture of the EU rather than a real incentive.²¹⁹

The receiver of this support is the Government of Ukraine and it goes directly to the budget of Ukraine. It is focused merely on senior civil servants, who have to justify spending as this is mandatory for the implementation of the reform, since most of the spending for the reform goes toward salaries with some amount spent on gadgets and renovation of premises.²²⁰ Only after yearly budget adoption, is reform financed on a yearly basis. Hence, the EU does not finance any salaries for new civil servants, but rather provides financial support to the budget as a part of conditionality: “carrots” for accomplished tasks and “sticks” for failures.

4.2.4. Macro financial assistance

Ukraine is the largest recipient of EU macro-financial assistance to “third countries”.²²¹ The decision to provide funds within each macro financial assistance program is made within the framework of the general legislative procedure of the EU: the EU Council and European Parliament.

Following the adoption of the basic decision of funds provision, the EU and Ukraine started negotiations on the terms of assistance, namely on Ukraine’s commitment to perform policy improvements and reforms. Ukraine’s commitment to specific priorities and to reaching strategic goals is a prerequisite for all further developments. Upon agreement of conditions, the parties sign the *Memorandum of Understanding* as a borrower and a creditor. From the Ukrainian side, the ratification of the Memorandum was made by the Ukrainian legislative power (Verkhovna Rada).²²²

As of September 2018, the EU had three Macro-financial programs with Ukraine, under which Ukraine received 2.8 billion EUR of assistance.²²³ A fourth program is expected to be launched after

²¹⁹ Team Leader of the EU funded project “Support to Comprehensive Reform of Public Administration in Ukraine”

²²⁰ Accounting Chamber of Ukraine: Report on the Results of the Audit of the Effectiveness of Usage the State Budget on Measures to Implement a Comprehensive Reform of Public Administration, http://www.ac-rada.gov.ua/doccatalog/document/16758138/Zvit_27-1_2018.pdf?subportal=main (accessed 15.01.2019)

²²¹ EUR-Lex (29.06.2018): Report From The Commission to the European Parliament and the Council on the implementation of macro-financial assistance to third countries in 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1530518059687&uri=COM:2018:511:FIN> (accessed 29.01.2019)

²²² Verkhovna Rada of Ukraine: Memorandum of Understanding Between the European Union as Lender and Ukraine as Borrower, Macro-Financial Assistance for Ukraine Loan Facility from the European Union of up to 1.8 billion EUR, http://zakon.rada.gov.ua/laws/show/984_015 (accessed 15.10.2018)

²²³ European Commission: Macro-financial assistance, https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/international-economic-relations/enlargement-and-neighbouring-countries/neighbouring-countries-eu/neighbourhood-countries/ukraine_en#macro-financial-assistance (accessed 29.01.2019)

the signing of a bilateral agreement and this decision was made by the EU Commission in March 2018.

Public administration reform was among the criteria under the third Macro-financial program. It was envisaged that Ukraine should adopt a law on civil service and secondary legislation for its implementation, as well as to ensure its entry into force. The Law of Ukraine “On Civil Service” was adopted in December 2015²²⁴ and came into force in May 2016. SIGMA highlights the importance of the adoption of this law, a very important role-played *external incentive*, which is criteria for the third tranche of Macro-financial support, as well as a strong communication campaign.²²⁵

The result was a depoliticization and increased professionalism of the civil service through a clear division between political and administrative functions. The other issue concerned the importance of changing the human resources management system. Within the framework of the third Macro-financial program, Ukraine managed to receive only two out of three tranches of 600 ml EUR each in July 2015 and April 2017. It should be noted that Ukraine received the second tranche even though the country did not meet all the necessary conditions: Ukraine did not lift the moratorium on exports of logs. However, the Government lost the opportunity to receive the third tranche in the framework of the program as it did not fulfil 4 of the 22 conditions: the launch of automatic verification of e-declarations, lifting the ban on exports of logs, the law on the National Bank of Ukraine credit register and verification of information about beneficiary owners of companies.²²⁶

Accordingly, a statement was made by EU officials that the great amounts of assistance provided to Ukraine often have the character of credible conditionality with feasible rewards and ‘punishments. Hence, in the fourth tranche, a memorandum on which was signed on 26 June 2018, the EU Council was obliged to provide loans to the Ukrainian government in the amount of 1 billion euro, though the actual amount of such loans will be based on certain commitments. On 14 September, this financial support was agreed upon.²²⁷

²²⁴ European Commission, 10 December 2015: Statement by Commissioner Johannes Hahn on the adoption of the Civil Service Law by the Ukrainian Parliament, https://ec.europa.eu/commission/commissioners/2014-2019/hahn/announcements/statement-commissioner-johannes-hahn-adoption-civil-service-law-ukrainian-parliament_en (accessed 29.01.2019)

²²⁵ International expert of the EU funded project “Support to the implementation of the EU-Ukraine Association Agreement”

²²⁶ European Commission, 1 December 2017; European Commission ready to consider further Macro-Financial Assistance to Ukraine, provided reform momentum is stepped up, http://europa.eu/rapid/press-release_IP-17-5064_en.htm (accessed 29.01.2019)

²²⁷ Економічна правда, 14 September 2018: Ukraine and the EU signed an agreement on a billion euro loan, <https://www.epravda.com.ua/news/2018/09/14/640599> (accessed 29.01.2019)

The criteria for the next macro-financial assistance does not include any further requirements on the adoption of any other laws related to the public administration, hence further implementation of laws related to bigger amounts of financial support are not supported very much by the high officials.²²⁸ Nevertheless, this criterion played rather a bigger role for the Government of Ukraine, as it involved more financial assistance and, correspondingly, more incentives to vote for a new law. This case clearly reflected the politics of conditionality of the EU, which was successful.

4.2.5. EU and Ukraine interdependence

One of the most important, but not most obvious triggers, which drive both the Ukrainian as well as the EU side, is their interdependence and absence of feasible alternatives for profiting, which was described in the theoretical part of this thesis. Since 2014, Ukraine has been involved in an armed conflict with Russia and simultaneously signed the EU-Ukraine Association Agreement/its Deep and Comprehensive Free Trade Area (DCFTA).

1) Ukraine dependence on EU political and financial support

As mentioned earlier, since 2014 the general line in foreign policy of Ukraine shifted significantly from orienting on the Russian Federation in receiving political and financial support to receiving support from countries of the Euro Atlantic area and the EU as a political and economic union of states. During this period Relations intensified between the EU and Ukraine almost in all spheres of economy and social affairs during this period. On the contrary, Ukraine`s relations with Russia in different spheres have been constantly decreasing.

2) Economy and trade

With the signing of DCFTA as a part of the AA, the EU and Ukraine agreed to make their markets open for goods and services with the application of fair trade rules. It should be mentioned that it is primarily Ukraine`s obligation to bring its rules in line with EU, especially in the industrial and agricultural sectors.²²⁹ Overall, the EU is Ukraine's largest trading partner and Ukraine`s exports to the EU are constantly growing.

3) Official development assistance for support of reforms and humanitarian support

Considering the poor state of the finances of Ukraine and the severe humanitarian situation due to external aggression in 2014, the EU increased its package of aid to Ukraine including cheap loans

²²⁸ Team Leader of the EU funded project “Support to Comprehensive Reform of Public Administration in Ukraine”

²²⁹ European Commission: Countries and regions, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/ukraine/> (accessed 12.03.2019)

from the EIB and the EBRD, loans within the framework of Macro-Financial Assistance and financial and technical assistance from the European Neighborhood Instrument.²³⁰ Ukraine is heavily dependent on EU aid in the spheres of energy, infrastructure and transport, public finances and the municipal sector. It should be noted that EU support efforts are aimed at decreasing the Ukraine's dependence on foreign aid. As for humanitarian assistance, the EU contributed to providing financial and humanitarian support (677 million euro). The EU supports most vulnerable people, and this is especially important because the EU supports people along both sides of the contact line which is difficult for the Ukrainian Government to provide.

4) Political support and sanctions against Russia

Ukraine heavily relies on the set of sanctions and restriction measures which were put on the Russian Federation by EU member-states in retaliation for the illegal annexation of Crimea and the occupation of parts of the Donetsk and Luhansk regions. The main idea behind sanctions is to prevent Russia from further advancing into Ukraine territory considering Russia's supremacy in equipment and number of soldiers. However, there is also the opinion that such restrictions didn't achieve their initial goal and the actions of Russia against Ukraine remain highly aggressive.²³¹

4.3. Conclusion

To sum up, the EU uses a wide range of instruments to support Ukraine on its Europeanization path. Firstly, conditions for effective EU influence are met in the case of Ukraine and are applied to public administration reform. Secondly, the EU is interested in a stable neighborhood and is ready to support the development of its bordering countries. Ukraine declared its interest in further Europeanization of public administration. However, there is a risk of improper implementation on this reform with the new unpredictable government. Budget support and macro financial assistance are based on conditionality, but the incentives are not big enough to make this reform more interesting for politicians, but at the same time, there are no prominent opponents to this reform. EU support was first aimed at backing the bureaucratic system, rather than non-governmental organizations or civil society, because they play a minor role in this reform.²³² There is a possibility for a reshaping of this reform by newly elected politicians after elections in 2019, but no clear chance that this reform could be abandoned.

²³⁰ European Commission, External Action Service, https://eeas.europa.eu/headquarters/headquarters-homepage/4081/eu-ukraine-relations-factsheet_en (accessed 12.03.2019)

²³¹ POLITICO, 29 November 2018: Europe's Russia sanctions are not working, <https://www.politico.eu/article/europe-russia-sanctions-are-not-working-ukraine-azov-sea-kerch-strait-vladimir-putin> (accessed 12.03.2019)

²³² See Table 4

From the side of the EU, it uses mechanisms described in the Theoretical framework part related to the Enlargement policy to support public administration reform in Ukraine. All of the instruments are in place and have significant impact on further deployment of the reform.²³³ However, the presence of various types of EU assistance and its political support does not show the result.

EU mechanisms and instruments	Implementation in PAR
gatekeeping	AA requirement of the institutional capacity to implement acquis
benchmarking and monitoring	SIGMA baseline assessment in 2018 and requirements for variable tranches
models	SIGMA principles
aid	Financial and technical assistance
advice	EU4PAR project

Table 4: EU influence mechanisms allocation in PAR in Ukraine, table generated by the author

The EU approach is rather simple and does not imply a specific set of rules to be implemented in a sphere of public administration, but rather it assists and supports domestic initiatives of reform-minded staff with soft power. Hence, this assistance has very little power-based or hierarchical influence, but rather assistance on the horizontal level speeded on various projects aimed to support reform from different sides: civil service professionalization and best practices technics applicable to various spheres. Though, most parts of public administration reform are invisible for citizens and are primarily attached to public sector employees except for administrative services provision. Related to services provision, the “Law on administration procedure” has not been implemented for many years before and putting this as an indicator for budget support will not create credible incentives to adopt certain laws by Verkhovna Rada. Hence, the size of rewards does not correspond to the challenges and budget support consists primarily of allowances for reform staff positions among civil servants.

Condition for Europeanization	Summary of the condition in place
Affinity of EU and international rules: SIGMA	SIGMA as a joint initiative of the EU and OECD elaborated principles for good governance, which helped to transform CEE countries during their transition period and currently they are applied to EaP countries in line with their commitments to implement AA and DCFTA. As the methodology for SIGMA assessment is in line with principles for good governance in OECD countries, these rules are applicable internationally and accordingly are attractive to implement in Ukraine. PARS has been structured and updated in accordance to SIGMA principles.

²³³ See Table 5

Conditionality	<p>The EU set as a condition for Macro financial assistance the adoption of a new Law on Civil service, which has been met by the Ukrainian side because of valuable promised rewards.</p> <p>The EU has a clear set of requirements, which have to be implemented by Ukraine every year from 2017 to 2020 in order to receive budget support. Financial support consists of variable (15 million EUR) and non-variable (5 million EUR) parts, which are being paid on a yearly basis. Apart from that, the EU provides technical assistance to PAR, which is embedded into the EU4PAR project.</p>
Interdependence	<p>The Ukrainian Constitution was adjusted by EU and NATO aspirations, which suppose only one direction for the further development of Ukraine: Europeanization. As trade with the EU has continued to grow and Ukraine has an ongoing conflict with Russia, there is no possibility for openly friendly relations with Russia. From the other side, the EU is interested in stabilizing and securing its borders by providing any possible assistance to its neighborhood.</p>

Table 5: EU conditions for Europeanization

5. Analysis of domestic conditions for effective Europeanization of public administration in Ukraine

This chapter represents analysis of present conditions for the Europeanization of public administration reform in Ukraine with their further discussion.

Domestic influence plays a highly important role and the whole success of the adoption of external rules depends on the presence or absence of some specific conditions for successful Europeanization. As outlined in the theoretical framework, the following conditions for effective Europeanization on the domestic level will be discussed in this chapter:

- 1) public administration reform in Ukraine analysis and its compatibility with SIGMA principles;
- 2) domestic costs of public administration reform implementation;
- 3) support from politicians and civil society.

5.1 Public Administration Reform in Ukraine

Ukraine inherited Soviet-type public institutions: very hierarchical and inflexible. Since the independence period, little attention has been paid to their efficient and effective functioning. The capacity of the government to deliver public goods has not been significantly improved by any reform since 1991, when Ukraine gained its independence. This is still reflected in the socialist-style governance legacy through the huge amount of loss-making state-owned enterprises, as according to the Ministry of Economic Development and Trade, there are at least 1255 enterprises which are recommended to be reorganized or closed down.²³⁴ Besides this there new players appeared: oligarchs. With the overall transformation of the economy into a market system, the formal state institutions appeared to be ineffective, therefore informal practices filled the vacuum. This resulted in a system where government officials were appointed because of their connections to business; henceforth, it gradually became impossible to separate public interest from private. Influencing policies from the inside by private interests combined with poorly paid and overall unmotivated civil servants shattered the bureaucratic machine inherited from the Soviet period. An insufficient

²³⁴ Ministry of Economic Development and Trade: List of state-owned objects regulating the introduction of reorganization or liquidation, <http://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=1c7fd0cb-7cff-4dd7-a2ab-cc5442a6fa94&title=PerelikOb-ktivDerzhavnoiVlasnosti-YakiRekomendovanoPripinitiShliakhomReorganizatsiiAboLikvidatsii> (accessed on 13.09.2018)

bureaucratic system created by oligarchs hindered most initiatives for reforms.²³⁵ Consequently, the system, which must be a strong machinery of government, became more vulnerable since the state gained its independence. This explains the low trust in public institutions in Ukraine.²³⁶ Only 11,3% trust the government, while 82,1% totally distrust it. Simultaneously, government is the only one to undertake public administration reform, as it does not include such branches of power as parliament and court.

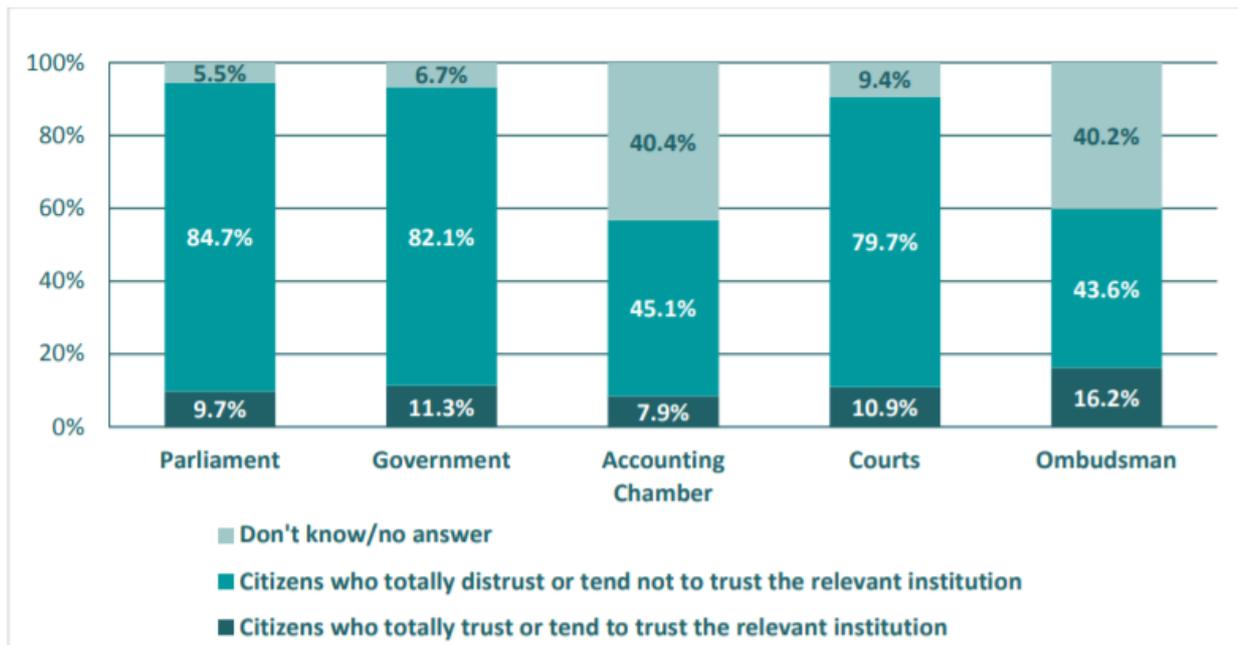


Table 6: SIGMA Baseline Measurement Report: The Principles of Public Administration, Ukraine June 2018

Ineffective public administration negatively influences economic growth and the possibility for Ukraine to pay off its external debts. Assuming the challenges of paying off external state debts, which comprise according to IMF 70,5% GDP, in 2019 – 68,8%, in 2020 – 64,4%,²³⁷ there is a strong need to enhance public governance by making it more accountable and evidence-based. Additionally, institutional capacity to form and implement policies does not represent a level of democracy or openness of the country, hence, it is only a technocratic part of the development of each country and does not depend on a political component. According to the Global Competitiveness Index, the effectiveness of Ukrainian institutions has placed 129 out of 137 in 2016, 118 in 2017 and 110 in

²³⁵ Wolczuk, Kataryna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, Chatham House, p. 6-7, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed on 13.09.2018)

²³⁶ See Table 6

²³⁷ UA News, 11 October 2018: Forecasts of IMF: how in 5 years the national debt of Ukraine will drop to 53% of GDP, <https://ua.news/ua/prognozy-mvf-yakym-chynom-za-5-rokiv-derzhborg-ukrayiny-znyzysya-do-53-vvp/> (accessed 27.10.2018)

2018,²³⁸ which shows slow but gradual improvement of this pillar. Therefore, the role of ‘good governance’ could be described as: *“to ensure efficiency in public administration and public finance management, rule of law, decentralization and regulation of corporate life, including competition laws and anti-corruption watchdogs, arms-length procurement processes and the outsourcing of public services and supply”*.²³⁹ This definition is closely related to the capable and effective institutions, which could support and develop national markets and which is essential for donors’ activity.

5.1.1. Prehistory of the current public administration reform

Ukraine undertook several attempts at public administration reform. The first attempt took place in 1999, after the new Constitution of Ukraine was adopted in 1996, which allowed the President *together* with the Cabinet of Ministers to establish, reorganize or abolish the central executive bodies.²⁴⁰ In 1999 the Presidential Decree “On Changes in the System of Central Executive Bodies of Ukraine”²⁴¹ was announced. This ‘reform’ was characterized by one of the interviewees²⁴² as follows: in 1999, during the presidency of L. Kuchma, the reform of public institutions was not aimed at changing the ideology of the work of these bodies, but rather to rename, merge, or divide central executive bodies according to the interests of the political elites. Administrative reform concerned only ‘central executive bodies’ and was not aimed at the whole scope of their functions. Hence, there is no systemic approach to the scope and determination of the necessity of state functions.²⁴³ Therefore, the results of each reform are such that one central executive body stops its activities as one legal entity and turns into another legal entity, or one legal entity stops its activities and its

²³⁸ World Economic Forum: The Global Competitiveness Report 2017–2018, <https://www.weforum.org/reports/the-global-competitiveness-report-2017-2018> (accessed 15.10.2018)

²³⁹ Hout, Wil (2019): Governance and development: Changing EU policies, *Third World Quarterly*, https://www.researchgate.net/publication/228676188_Governance_and_development_Changing_EU_policies (accessed 23.10.2018)

²⁴⁰ Team Leader of the EU funded project “Support to Comprehensive Reform of Public Administration in Ukraine”

²⁴¹ Verkhovna Rada of Ukraine: About changes in the system of central executive bodies of Ukraine, <http://zakon.rada.gov.ua/laws/show/en/250/99/ed19991122> (accessed 28.10.2018)

²⁴² Legal advisor from and NGO BRDO (Better Regulation Delivery Office), which assisted Secretariat of the Cabinet of Ministers of Ukraine with the improvement of the Rules of Procedure of the Cabinet of Ministers

²⁴³ According to the Concept of Optimization of Central Executive Bodies, which came into force on 27 December 2017, there present a determination of functions according to their possible presence in certain types of such bodies. Hence, ministries have to transfer ‘non inherited’ functions related to the provision of administrative services, state properties management and control, inspection functions.

functions get transferred to another one, etc. As this process takes a lot of time, it has not been implemented systematically.²⁴⁴

Later there was an attempt at reform in 2005, but only a SIGMA report has been conducted without any further development. The next reform took place in 2011, with the Presidential Decree “On Optimization of the System of Central Executive Bodies”²⁴⁵ and then the law “On central Executive Bodies”,²⁴⁶ appeared a classification of functions: policy forming and implementation, hence, all committees established by the Presidential Decree in 2011 were divided into three types of bodies: *services*, *inspections* and *agencies*. These were executive bodies, which implement policies formed by ministries. This system is in place as of now, but according to ‘Положення’ or Provisions of all 18 ministries, they perform other duties and non-ministerial functions, which causes potential conflicts and affects the whole efficiency of public administration.

Between 2011 and 2016 several attempts were made to reform public administration, but they all failed because of the lack of political support.²⁴⁷ Other reasons for this failure include a lack of political leadership, frequent changes of government, the uncontentious character of the reforms, and the use of PAR merely for PR purposes. A representative of the Secretariat of Cabinet of Ministers stated in the interview: *“each new government has been coming with its agenda and among other issues there was always public administration. Almost the same approaches to public sector reform were reflected in various policy papers throughout all governments, but as the goal has never been reached, new governments produced new concepts. Because of the complexity of any public administration or so-called government machinery, this issue should always be present during any government, but in Ukraine, there were no holders of the sphere of public administration. Institutions in charge of public administration were always different: the Ministry of Economic Development, the State Agency of Civil Service, the Ministry of Justice or some of the Vice-prime-ministers. The process of PAR is permanent and consistent, any lack of institutional memory causes a vacuum when acquired experience is neglected, but the same old initiatives are represented as a reform”*.²⁴⁸ Therefore, the

²⁴⁴ Head of the Expert Group of the Effectiveness of the System of Central Executive Bodies, the Directorate of Public Administration, Secretariat of the Cabinet of ministers of Ukraine

²⁴⁵ Verkhovna Rada of Ukraine: Law on Optimization of the System of Central Executive Bodies, <http://zakon.rada.gov.ua/laws/show/1085/2010/ed20101209> (accessed 28.10.2018)

²⁴⁶ Verkhovna Rada of Ukraine: Law of Central Executive Bodies <http://zakon.rada.gov.ua/laws/show/3166-17> (accessed 28.10.2018)

²⁴⁷ European Court of Auditors (2016): Special Report EU Assistance to Ukraine, pursuant to Article 287(4), second subparagraph, TFEU, https://www.eca.europa.eu/Lists/ECADocuments/SR16_32/SR_UKRAINE_EN.pdf (accessed 31.08.2018)

²⁴⁸ Head of the Expert Group of the Effectiveness of the System of Central Executive Bodies, the Directorate of Public Administration, Secretariat of the Cabinet of ministers of Ukraine

importance of the continuity of public administration reform regardless of ruling party is very important for the sustainability of reforms.

With all the above-mentioned chaotic reforms, there was also no clear direction of the government on its foreign and internal policy. Now Ukraine has a clear vision for its future in the sense of tighter connections with the EU. Reviewing Ukrainian legislation, related to the basis of Ukrainian foreign policy which came into force in 1993 and was abolished only in 2010,²⁴⁹ the special place there has been taken by the *Russian Federation*. Apart from this, the main task in the field of international affairs has a declarative character: to “*become an influential world power capable of fulfilling a significant role in ensuring political and economic stability in Europe*”.²⁵⁰ Among the main directions, the “*dominant bilateral relations with the border states*” were emphasized on Ukrainian-Russian relations, which should develop in line with “*really good-neighborliness, mutual respect and partnership*.” The role of Ukraine was to “*become a reliable bridge between Russia and the countries of Central and Eastern Europe*”.²⁵¹ Recognizing the leading role of Western countries in the international system of that time, Ukraine supported the establishment of “*relations of political and military partnership, mutually beneficial economic cooperation, wide cultural, scientific, humanitarian ties*”.²⁵² The other part of this document concerned restoring relations after the split of the Soviet Union with European states as “*the basis for expanding Ukraine's participation in European structures*”.²⁵³ “*Special significance*” in the context of Ukraine's integration into the European and international economic sphere was devoted to relations with the US. The law emphasized the need to increase participation in the North Atlantic Cooperation Council and the North Atlantic Assembly and defined the long-term goal for the foreign policy of Ukraine – membership in the European communities, as well as other European structures. The necessity of concluding with the EU the Partnership and Cooperation Agreement as “*the first stage of promotion to an associate, and later to the full membership in this organization*”.²⁵⁴

It is important to highlight that the Constitution of Ukraine appeared only three years later, in 1996 during the presidency of L. Kuchma and had neither neutrality nor non-alignment information. The distinctiveness of this policy was the chaotic change of vectors and political slogans: permanent,

²⁴⁹ Verkhovna Rada of Ukraine: Law on the main directions of foreign policy of Ukraine, <http://zakon.rada.gov.ua/laws/show/en/3360-12/ed20100720> (accessed 28.10.2018)

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ Ibid.

temporary or active neutrality; a simultaneous partnership with the EU, the US and Russia; two-vector; Euro-Atlantic choice; European and Euro-Atlantic integration while maintaining strategic partnership with Russia.²⁵⁵ If L. Kuchma's statements were about 'multi-vector policy' with a notable prevalence of the 'Russian factor',²⁵⁶ the notions of the politicians on the "European roots" and "coming back to Europe" concepts emerged with the presidency of V. Jushenko and when the 'European life standard' was not reached, it evolved into disappointment.²⁵⁷

The most recent revolution in Ukraine, the Revolution of Dignity, led to the impeachment of the President, the annexation of territory by the Russian Federation and an active military conflict in the Eastern part of Ukraine. This triggered, according to the official report from the OSCE Special Monitoring Mission to Ukraine, humanitarian catastrophe and an uncountable number of displaced people who mostly fled to other regions of Ukraine as well as to Russia.²⁵⁸ This conflict led to the situation where no politician supports further cooperation with Russia and where being 'pro-Western' became popular.

After 2014, civil society, supported by international aid, undertook in Ukraine a significant role in the governmental decision-making process.²⁵⁹ This model was called 'sandwich' and has been discussed in the chapter related to the theoretical part of this paper.

The shape of reforms and reformers in the post-Euromaidan era drastically changed from those prior to 2014. The basis for this appeared in the fact that the latest generation of reformers have not relied explicitly on Western donors, but rather on themselves. There appeared a small number of people in politics, civil society and, which is more important in civil service, those who gained education and experience abroad and brought it back to Ukraine.²⁶⁰ This created a mix of people who have new knowledge with people who possess institutional memory.

²⁵⁵ Vidnyansky, Stepan (2006): Evolution of Ukraine's Foreign Policy (1991-2006), Stepan Vidyansky, Yuriy Martynov, in *Ukrainian Historical Journal* №3. 32-51, p. 37-38

²⁵⁶ Kovács, Melinda; Leipnik, Olena (2008): The Borders of Orientalism: "Europeanization" in Hungary and Ukraine, *Debate: Journal of Contemporary Central and Eastern Europe*, 16:2, 151-169, p. 159

²⁵⁷ *Ibid.* 160

²⁵⁸ OSCE Special Monitoring Mission to Ukraine: Conflict-related Displacement in Ukraine: Increased Vulnerabilities of Affected Populations and Triggers of Tension within Communities <https://www.osce.org/ukraine-smm/261176?download=true> (accessed 31.08.2018)

²⁵⁹ Nitsova, Silviya; Pop-Eleches, Grigore; Robertson, Graeme (2018): Revolution and Reform in Ukraine Evaluating Four Years of Reform, PONARS Eurasia, http://www.ponarseurasia.org/sites/default/files/policy-perspectives-pdf/Revolution%20and%20Reform%20in%20Ukraine_Nitsova_Pop-Eleches_Robertson_July2018.pdf (accessed 30.09.2018)

²⁶⁰ *Ibid.* 5

With the EU-Ukraine Association Agreement (AA) and the Deep and Comprehensive Free Trade Area (DCFTA), Ukraine undertook an extensive range of reform commitments. The range of reforms is even wider than those undertaken by potential-member-states.²⁶¹ However, there is a lack of absorption capacity and issues with implementation. This malaise has been observed in other post-Soviet states which had little experience with the liberal democratic state. Assuming a lack of capacity and little progress achieved prior to the events of 2014, there is the danger that the reform process takes another break because of the change of power. After the presidential and parliamentary elections in 2019, the EU representatives expressed their concern that the elections might slow down the process of reforms.²⁶²

5.1.2. Public Administration Reform Strategy through 2021

The Public Administration Reform Strategy through 2021 (PARS) is an official document which aims to strengthen the public administration of Ukraine with accordance to the SIGMA good governance criteria. This strategy has an action plan, it is financed through the budget of the government, and it has political, technical and financial support from the EU as well as a coordinating structural unit placed within the Secretariat of the Cabinet of Ministers.

PARS consists of the following areas: strategic framework of public administration reform; policy development and co-ordination; public service and human resource management; accountability; and service delivery.

In the PAR Report *for 2016 – 2017*, the role of PAR in ensuring effective governance was defined as follows:

*“Public administration reform, reform of the system of public finance management and decentralization are the components of proper and efficient governance in Ukraine. Development of a system of governance capable of implementing systemic reforms in Ukraine and ensuring economic growth while observing principles of democracy, rule of law, protection of human rights and gender equality principles, inclusiveness and participation is another basic precondition for Ukraine’s success.”*²⁶³

²⁶¹ Wolczuk, Kataryna; Žeruolis, Darius (2018): *Rebuilding Ukraine: An Assessment of EU Assistance*, p. 3, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 30.09.2018)

²⁶² Deutsche Welle, 20 April 2018: *The approaching election in Ukraine is not a justification for slowing down the reforms*, <https://www.dw.com/uk/ес-наближення-виборів-в-україні-не-виправдання-уповільненню-реформ/a-43466089> (accessed 23.10.18)

²⁶³ *Report on Implementation of the 2016-2020 Strategy of Public Administration Reform in Ukraine in 2016-2017*, p. 17, https://www.kmu.gov.ua/storage/app/media/reform%20office/PAR%20annual%20report_Eng.pdf (accessed 15.01.2019)

Initially, PARS was created without an assessment of the present situation.,. However PARS foresaw the necessity of a comprehensive SIGMA PAR review no later than 2018, after which PARS must be updated and suggestions made in the report must be taken into account in PARS through 2021. A renewed PARS document was released on 18 December 2018. It states, “*A result of the implementation of the Strategy for the Reform of Public Administration for the period up to 2021 should be a system of public administration that works in the interests of society, providing sustainable development for the country, while high-quality public services should become more effective and accountable to citizens*”.²⁶⁴ Simultaneously, the planned results should address the following:

- *improved quality of public services;*
- *depoliticized, stable and professional public service, which works in the interest of the state;*
- *professionals’ attraction to work in the public service sphere;*
- *transparent and accountable civil service;*
- *citizens’ trust in state institutions will grow, which is important for the further success of reforms and citizens support.*²⁶⁵

The biggest evaluation of the state of play for public administration in Ukraine was undertaken by SIGMA in 2018 and presented a comprehensive report on the issues as well as short- and medium-term suggestions to improve. The report was related to the different branches of power and an overview of the general effectiveness and coherence of bureaucracy in Ukraine. Nevertheless, the report was not made to *evaluate the progress of the public administration reform* itself but was rather aimed at creating a benchmark for the further improvement of PARS. This report was used in 2018 to update PARS and simultaneously to extend it to 2021.

The complementary document aimed at reforming public finance management was the Strategy for Public Finance Management System Reform for 2017-2020 (PFMSRS). However, SIGMA outlined a lack of coherence in PARS and PFMSRS. The responsible body for its coordination and monitoring is the Ministry of Finance. Hence, public finance management issues are neither integrated not

²⁶⁴ Cabinet of Ministers of Ukraine: On Amendments to the Decrees of the Cabinet of Ministers of Ukraine dated June 24, 2016 No. 474 and December 27, 2017 No. 1013, <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-dorozporyadzhenn-kabinetu-ministriv-ukrayini-vid-24-cherwnya-2016-r-474-i-vid-27-grudnya-2017-r-1013> (accessed 10.02.2019)

²⁶⁵ Center for Adaptation of the Civil Service to the Standards of the European Union, 6 February 2019: A new civil service: the European model of good governance for Ukraine, <http://www.center.gov.ua/en/press-center/articles/item/1875-new-civil-service-%E2%80%93-the-european-model-of-good-governance-for-ukraine> (accessed 10.02.2019)

corresponded to PARS.²⁶⁶ The other problem highlighted by the Accounting Chamber of Ukraine was the absence of financing of PFMSRS in 2017-2018,²⁶⁷ which made this strategy incapable of being implemented from the beginning. The example of PFMSRS is very prominent as it shows the chaotic system of policy planning and coordination, where strategies are being adopted without any financial background and without their coordination with government priorities. Another issue is that budget planning occurs on a yearly basis, which leaves strategic documents and long-term reforms without financial support, which could lead to their abolishment. Only at the end of 2018 did Verkhovna Rada approve a law on medium-term budget planning, which implies budget planning for three years.²⁶⁸

Political leadership for the reform has been established, as this reform is attached to all spheres and at the beginning only ten ministries, two agencies and the Secretariat of the Cabinet of Ministers of Ukraine. To coordinate PAR the PAR Council was created and responsibilities for the PAR priorities were divided as follows:

- 1) The National Agency of Ukraine for Civil Service, the Ministry of Social Policy and the Ministry of Finance are responsible for the reform of Public Service and Human Resource Management;
- 2) The Ministry of Justice and the Ministry of Economic Development and Trade are responsible for the reform of administrative procedure and provision of administrative services development;
- 3) The State Agency for E-Governance and the Ministry of Economic Development and Trade are responsible for the reform of e-government.
- 4) All ministries and other central executive authorities were involved in the reform of public administration.²⁶⁹

As from the side of the Government, the direct coordination and monitoring unit in charge of PARS implementation is the Directorate of Public Administration (previously it was the Department of

²⁶⁶ SIGMA: Baseline Measurement Report: The SIGMA report Ukraine 2018, p. 11, <http://www.sigmaxweb.org/publications/Baseline-Measurement-Report-2018-Ukraine.pdf> (accessed 18.09.2018)

²⁶⁷ Accounting Chamber of Ukraine: Report on the Results of the Audit of the Effectiveness of Usage the State Budget on Measures to Implement A Comprehensive Reform Of Public Administration, http://www.ac-rada.gov.ua/doccatalog/document/16758138/Zvit_27-1_2018.pdf?subportal=main (accessed 15.01.2019)

²⁶⁸ Ministry of Finance of Ukraine, 18 October 2018: Verkhovna Rada adopted in the first reading medium-term budget planning, <https://www.minfin.gov.ua/news/view/verkhovna-rada-pryiniiala-u-pershomu-chytanni-serednostrokovy-biudzhetne-planuvannia?category=bjudzhet> (accessed 15.01.2019)

²⁶⁹ Verkhovna Rada of Ukraine, 11 October 2017: Regarding reforming the public administration of Ukraine, <http://zakon5.rada.gov.ua/laws/show/474-2016-%D1%80> (accessed 27.10.2018)

Public Administration, which was created in August 2016²⁷⁰ and was restructured in 2017) in the Secretariat of the Cabinet of Ministers of Ukraine. The other Directorate related to PAR is the Directorate of Strategic Planning and State Policies Coordination, and its aim is to strength public policy as well as the planning capacities of the government.²⁷¹

5.1.2.1. Strategic Planning, Policymaking and Coordination

Overall, there is a list of 62 priority reforms which must be implemented in circumstances where an extensive number of bureaucratic procedures exists as a part of institutional memory and have no electronic development, which created a situation when legal acts are worked on only on paper. Apart from this issue most correspondence was on paper and took a great amount of time. Only since 2016 did the *Electronic document management system (EDMS)* appear, which aimed to connect central executive bodies (CEB) and local administration in one system. The importance of this step was crucial, as it was done by most of the CEE countries in the 90th.

In 2017 the Medium-Term Government Priority Action Plan to 2020 (MTGPAP) was adopted, which defines the goal and objectives of the Government's activities. This plan became an important step towards systemic work on the implementation of reforms, though it has not been connected to the yearly budget planning for 2017 and 2018. MTGPAP was supposed to integrate itself in the Government's Operation Plan for a certain year, the Plan for AA implementation, sectoral strategies and other priorities.²⁷²

²⁷⁰ The Reforms Guide (27 September 2017): Public administration reform, <http://reformsguide.org.ua/ua/analytics/public-administration-reform-2/> (accessed 15.10.2018)

²⁷¹ Provision on the Directorate of Strategic Planning and State Policies Coordination, http://www.career.gov.ua/images/direcorate_provisions/kmu/%D0%BF%D1%80%D0%BE%20%D0%B4%D0%B8%D1%80%D0%B5%D0%BA%D1%82%D0%BE%D1%80%D0%B0%D1%82%20%D1%81%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D1%96%D1%87%D0%BD%D0%BE%D0%B3%D0%BE%20%D0%BF%D0%BB%D0%B0%D0%BD%D1%83%D0%B2%D0%B0%D0%BD%D0%BD%D1%8F.pdf (accessed 14.10.2018)

²⁷² See Table 7

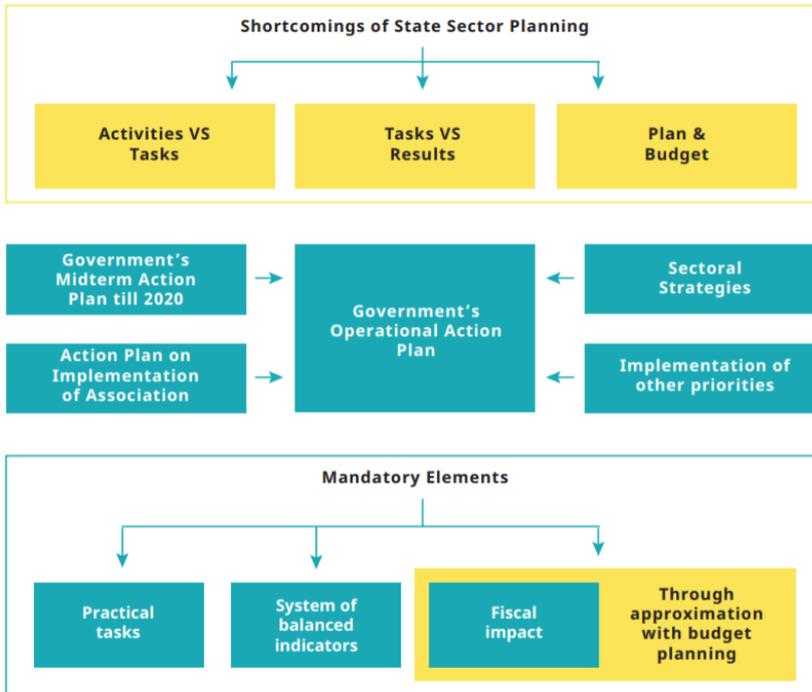


Table 7: *Strategic Planning for Efficient Governance* extracted from Public Administration Reform Report for 2016 – 2017, p. 33

The main objectives of this part of the reform are:

- 1) *“to build strategic planning capacity of the Cabinet of Ministers of Ukraine;*
- 2) *to draw a list of state strategic planning documents;*
- 3) *to approve a methodology for drafting state strategic planning documents;*
- 4) *to align strategic decisions with the state budget resources in the mid-term perspective;*
- 5) *to enhance coordination of activities in the sphere of e-governance;*
- 6) *to ensure proper consultations with the public and stakeholders in the course of public policy making.”*²⁷³

As since the beginning of 2019 the beforementioned activities have not been implemented and there is still a lack of coordination and hierarchy of strategic planning documents, these activities will most probably be postponed with the new government.

Even though coordination and planning are not sufficiently updated and there is a prominent lack of capacity in the sectoral AA and DCFTA implementation, the basic coordination functions appeared and are in place. Numerous ‘road maps’, strategies, actions plans have no hierarchy, are not structured and have no budgetary implications. The above-mentioned plans are too generic and have no focus

²⁷³ Public Administration Reform Strategy of Ukraine through 2021
https://www.kmu.gov.ua/storage/app/sites/1/reform%20office/01_strategy_eng.pdf (accessed 14.10.2018)

on sectoral integration. Poor policymaking capacity created a situation where the EU takes active actions to improve it with technical assistance.²⁷⁴

The Cabinet of Ministers is overburdened with operational issues instead of strategic and long-term discussions. Strategic planning, accordingly, should be based not only on the quality of strategic papers, but also on the possibility to implement, monitor and evaluate them for further improvements. This is visible from the fact that Government Priority Action Plan (MTGPAP) implementation was only 40% in 2018.

The Cabinet of Ministers has plenty of central executive bodies as well as state property and even state-owned enterprises for which it carries only collective political responsibility, which limits the capacity of the government to focus on its political functions: discuss and adopt draft laws.²⁷⁵ An activity, aimed at resolving this issue was a part of PARS since 2016 and had to be implemented already in 2016, with the start of the government of V. Groysman, but it has been postponed first to the end of 2017 and then to 2020. However, after the last SIGMA review and PARS update, this activity disappeared. This is a clear sign that politically ‘unpleasant’ activities of the reform are gradually being ‘lost’²⁷⁶ and gradually adjusted to the reform.

5.1.2.2. Civil Service and Human Resource Management

Professional civil service is an important step for all post-communist countries. CEE countries implemented it during their EU accession process, but ENP countries have neither leverage from the EU to implement their own changes, nor the willingness to do so.

The first issue is that the current civil service is very strong and capable to move politically desired things forward, and to hinder what they consider as a threat: modernization, digitalization. The second issue is that Ukraine got AA and DCFTA, on which the civil service has very little experience and

²⁷⁴ Wolczuk, Kataryna; Žeruolis, Darius Rebuilding Ukraine (2018): An Assessment of EU Assistance, p. 15 <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 10.10.2018)

²⁷⁵ ZN,UA, Vyshnevskyi Andriy; Kondyk, Pavlo, 3 February 2018: Why and how should the Cabinet be reformed, and what prevents it from doing so?, https://dt.ua/internal/chomu-i-yak-treba-reformuvati-kabmin-i-scho-zavazhaye-ce-robiti-268125_.html (accessed 18.08.2019)

²⁷⁶ Ukrainska Pravda, 13 November 2018: “Sasha-lose”: unprofitable documents for Groysman may “lose”, <https://www.pravda.com.ua/news/2018/11/13/7198066/> (accessed 18.08.2019)

knowledge. In this sphere it became clear that in this type of knowledge the Ukrainian civil service needs to build its capacity.²⁷⁷

The introduction of positions of civil servants who are responsible for carrying out major national reforms have the right to special remuneration conditions aimed at strengthening the capacity of ministries to draft policy papers and implement them. Salary conditions were merely introduced as a pilot of the remuneration reform on civil service and were primarily attached to transparency, while other civil service positions' salaries were dependent on the loyalty of the Minister or a State Secretary. Additionally, positions of State secretaries and their deputies were implemented, who oversee the work of the ministry and are accountable to the ministers; their aim is to preserve institutional memory and coherence of the policies. These positions were filled with the new recruiting procedure for reform support positions, which were elaborated with EU support. The New Law on Civil Service from 2016 as well as developed Methodological Recommendations on identifying key indicators for assessing performance (KPIs) of civil servants must strengthen the civil service reform further.

For the first time a website has been implemented which allowed for applying to civil service positions remotely: *career.gov.ua*. This has been a breakthrough for the recruiting process, as no papers have to be sent to the right institution now.

The other important issue, outlined by the PARS, is salaries. The problem of the absence of job classification and the non-transparent system of remuneration created a situation where bonuses represent the bulk of an accrual income of each civil servant and creates a situation completely dependent on the head of the institution. This situation creates a conflict of interest, where the amount of fixed salary is ridiculously low and monthly income depends on personal relations with directors. This also creates a situation of the presence of 'rich' and 'poor' institutions.²⁷⁸ However, such a situation is also favorable for 'old' civil servants, who have their own interest in preserving the status quo.

In the PARS of 2016, the initial idea was to hire three thousand RSPs to create a critical mass of new staff, which is capable of implementing reforms, however in the Resolution of CMU 647, the limit for the RSP has been defined as 1305 in 2018 and 821 in 2017.²⁷⁹ Nonetheless, according to the

²⁷⁷ Team Leader of the EU funded project "Support to Comprehensive Reform of Public Administration in Ukraine"

²⁷⁸ On the website of National Agency for Prevention of Corruption it is possible to track changes in declaration of civil servants and see median of the salary in each institution, <https://nazk.gov.ua> (accessed 27.01.2019)

²⁷⁹ Verkhovna Rada of Ukraine, 18 September 2017: Some issues of the implementation of a comprehensive reform of public administration, <https://zakon.rada.gov.ua/laws/show/647-2017-%D0%BF> (accessed 15.10.2018)

PARS, the amount of RSP has to be 2,5 thousand filled positions. Consequently, the competitive recruiting procedure appeared to be not enough for such ambitious plans.

Simultaneously, the implementation of ‘new’ staff recruitment as well as higher and more stable salaries were considered a threat to institutional unity and a trigger for inner conflicts.²⁸⁰ From the other side, it triggers the second issue in Ukrainian public service staff: the need to create staff capable of interpreting and implementing *acquis*.

Since the beginning of 2019, one of the most discussible things has been the creation of new policy-forming structural units – *directorates*. Under the supervision of the Directorate of Public Administration there were created *new procedures to hire civil servants* with fixed and transparent salaries. More than 350 reformers were hired in 60 directorates over pilot state bodies and these staff started to work on evaluating their spheres of politics to suggest further improvements. Trainings were introduced for newly employed reformers.²⁸¹

Another major success was a new Law on Civil Service, which separated politically appointed staff from civil service staff and represented a transparent merit-based competition procedure.²⁸² At the same time, it allowed career movements only through competition with no possibility of career growth. However, this made politically motivated appointments less possible, as the competition must remain in place.

It is not a common practice for the EU to financially support civil service staffing for third countries, but the case of Ukraine showed that there are not enough reformers within the ministries and those which came in 2014 slowly escaped the system by 2017 because of low salaries or because they were forced to leave. The sustainability of the existence of reform-minded professionals within middle-rank civil service appeared to be crucial and important to support. With the further budget support of the EU, higher salaries were paid to RSPs and secured by the separate budget program “Support for the implementation of integrated reform of public administration”. In 2017 the amount of expenditure for PAR implementation was 300 million UAH, in 2018 UAH 1630.7 million UAH and for 2019

²⁸⁰ Accounting Chamber of Ukraine: Report on the Results of the Audit of the Effectiveness of Usage the State Budget on Measures to Implement a Comprehensive Reform Of Public Administration, http://www.ac-rada.gov.ua/doccatalog/document/16758138/Zvit_27-1_2018.pdf?subportal=main (accessed 15.01.2019)

²⁸¹ New Eastern Europe, Pekar, Valerii, 22 August 2018: Public administration reform in Ukraine: state-building on the march, <http://neweasterneurope.eu/2018/08/22/public-administration-reform-ukraine-state-building-march> (accessed 15.01.2019)

²⁸² Wilson Center, Iarema, Irina, 28 January 2019: Public Administration Reform in Ukraine: Achievements and Expectations for 2019, <https://www.wilsoncenter.org/blog-post/public-administration-reform-ukraine-achievements-and-expectations-for-2019> (accessed 15.03.2019)

1230.6 million UAH, where 820.2 million are expenditures for salaries.²⁸³ As the budget is being planned only on a yearly basis, there is a threat that a new government would not consider this reform as important and consequently would not allocate any financing for it. The role of the EU and its financial support aligned with other donors, such as the European Bank for Reconstruction and Development, should become more intense on a political level to ensure the sustainability of the implemented reforms as changes are not irreversible.²⁸⁴

5.1.2.3. Accountability – Organization, Transparency, Oversight

An issue of the delegation of functions related to the provision of administrative services, public property management, control and supervision is an activity that has been one of the sensitivities of this reform, and it is outlined in the Concept of Optimization of the System of Central Executive Bodies.²⁸⁵ However, before 2018, this issue was not present in the PARS action plan, which shows that the government took into account recommendations made by SIGMA. As of 2019 this activity is scheduled through the end of 2021.

As part of the capacity strengthening of ministries, in 2017 directorates were created in ten pilot ministries and are responsible for certain policy spheres. Staffing of these directorates has been described in the before mentioned part. Apart from the creation of directorates, there appeared a functional division of responsibilities within pilot ministries: directorates are in charge of policymaking, departments are in charge of policy implementation, a so-called secretariat is in charge of support functions (e.g. legal support, HR, procurement, general services etc.) which were separated from the other functional responsibilities. This became a start of further reformation of ministerial structures with appropriate division of salaries. It is important to highlight that this process was made on a voluntary basis with accordance to the recommendations made by the PAR Council (which is only an advisory body), and only ministers are eligible to adopt a new structure of the ministry.²⁸⁶

²⁸³ For reference, see laws on State Budget of Ukraine for 2017, 2018 and 2019.

²⁸⁴ LB.UA, Marcel Röthig: 6 June 2018: It is too early to speak of an irreversibility of reforms, https://en.lb.ua/news/2018/06/06/6129_its_too_early_speak.html (accessed 15.01.2019)

²⁸⁵ Government of Ukraine: On Approval of the Concept of Optimization of the System of Central Executive Bodies, <https://www.kmu.gov.ua/ua/npas/pro-shvalennya-koncepciyi-optimiz> (accessed 10.10.2018)

²⁸⁶ Director General of the Directorate of Public Administration, Secretariat of the Cabinet of ministers of Ukraine

By the beginning of 2019, the only direct beneficiaries of the PAR are ten pilot ministries, the Secretariat of the Cabinet of Ministries and two state agencies.²⁸⁷ As part of the EU influence effectiveness assessment there have been made survey for civil servants who were directly involved in PAR as well as representatives of EU donor projects. By the end of 2018, the Government issued regulation 946,²⁸⁸ where principles of the restructure of *eight* ministries are regulated, with the outlined necessity to separate policy forming and implementation functions from non-specific functions as property management, issuing administrative services (licenses, certificates, etc.) and inspection, control and oversight functions. Functional specializations for new structures became mandatory and non-negotiable.

The fact that two ministries, which play in important role in the work of the government, the Ministry of Finance and the Ministry of Justice, are not a part of the latest resolution of the restructure of the pilot ministries shows that political support of PAR is not clear anymore. The other issue is that according to resolution 946, the complete restructure of eight ministries must finish by the end of 2019. Considering the timeframe, presidential elections in March and parliamentary elections in July 2019, activities should slow down in 2019. Hence, most probably the reform process will not be active in 2019 and the current government leaves the responsibility to decide whether this reform has been successful or not to the successors. In this case, EU support and leverage conditionality could play a crucial role, as this reform is difficult to sell to the public and does not have to follow the CEE experience of over politicization of the reform process, where managerial and organizational practices get substituted with political mottos to protect their own spheres of interest.²⁸⁹

5.1.2.4. Provision of Administrative Services

Reforms of administrative services is interrelated with decentralization reform, as the provision of state services through the ‘one window’ system is closely related to work on the local level. The development of the independence of local authorities and the delegation of responsibilities from the

²⁸⁷ Center for Adaptation of the Civil Service to the Standards of the European Union: New Civil Service – the European Model of Good Governance for Ukraine, <http://www.center.gov.ua/en/component/k2/item/1875-new-civil-service-%E2%80%93-the-european-model-of-good-governance-for-ukraine> (accessed 18.09.2018)

²⁸⁸ Cabinet of Ministers of Ukraine, 24 October 2018: On the completion of the reform of the structure of the apparatus of some ministries, <https://www.kmu.gov.ua/ua/npas/pro-zavershennya-reformuvannya-strukturi-aparatu-deyakih-ministerstv> (accessed 27.01.2019)

²⁸⁹ Randma-Liiv, Tiina; Nakrošis Vitalis; Hajnal, György (2010): Public Sector Organization in Central and Eastern Europe: From Agencification to De-Agencification in *Transylvanian Review of Administrative Sciences*, Special Issue, 160-175, p. 165, 162, https://www.researchgate.net/publication/228763960_Public_Sector_Organization_in_Central_and_Eastern_Europe_From_Agencification_to_De-Agencification (accessed 16.01.2018)

central to the local level started in 2012 with the coming into force of the law “On administrative services”, where the definition for administrative service was provided for the first time. Unfortunately, there is still a big question regarding whether some administrative services are needed at all and there is no comprehensive policy on the ‘service-oriented’ government. A further resolution of the Cabinet of Ministers in 2014 enabled local authorities to deliver services. Numerous problems have been faced due to the overall non-readiness of the locals to cope with new responsibilities: lack of staff, knowledge, technologies and understanding created a situation with very different levels of development of administrative service center networks (CNAP).²⁹⁰ The amount of support provided by various international donors is one of the reasons for the partial success of this reform, as neither central nor local government had the willingness to implement this reform and resistance was notable.²⁹¹

The draft law “On the Administrative Procedure” was adopted by the government in December 2018 and forwarded to Verkhovna Rada for further review.²⁹² SIGMA outlined the progress in the sphere of service delivery and highlighted donors’ support in this sphere, though, and the only successful deliverable has been CNAP. The problem with further development of administrative services is an absence of the basic law considering administrative procedure.²⁹³

According to the law which is in force “On Administrative Services”, “*Administrative services are determined exclusively by law*”,²⁹⁴ but the administrative procedure on how to deliver services and the regulation of the interaction between government and citizens is either not established or not regulated by specific bylaws.²⁹⁵

The following areas in the sphere of administrative services will be addressed under the Strategy:

²⁹⁰ Administrative service center networks: About reform, <http://cnap.in.ua/aboutreform> (accessed 16.01.2018)

²⁹¹ Administrative service center networks: Reform support, <http://cnap.in.ua/reformsupport> (accessed 16.01.2018)

²⁹² Cabinet of Ministers of Ukraine, 18 December 2018: Adoption of the Law “On the Administrative Procedure” will allow to protect people from lawlessness of the authorities, says Olexandr, <https://www.kmu.gov.ua/en/news/prijnyattya-zakonu-pro-administrativnu-proceduru-dozvolit-zahistiti-gromadyan-vid-svavillya-chinovnikiv-oleksandr-sayenko> (accessed 15.01.2019)

²⁹³ SIGMA: Baseline Measurement Report: The SIGMA report Ukraine 2018, p. 85, <http://www.sigmaweb.org/publications/Baseline-Measurement-Report-2018-Ukraine.pdf> (accessed 18.09.2018)

²⁹⁴ Verkhovna Rada of Ukraine: Law on Administrative Services, <https://zakon.rada.gov.ua/laws/show/5203-17> (accessed 15.01.2019)

²⁹⁵ Liga. Blogy, Evhen Shkolnyi, 12 January 2018: General administrative procedure: what it means and what is needed for citizens, <https://blog.liga.net/user/eshkolnyiy/article/29208> (accessed 15.01.2019)

- 1) *introducing general administrative procedure featuring basic guarantees (principle of legitimacy, establishing true facts, right to be heard, right to efficient remedies, right to obtain written decision specifying clear grounds for its approval, right to non-judicial review etc);*
- 2) *increasing the quality and accessibility of administrative services, including through administrative service centers, decentralization of basic administrative services;*
- 3) *reduction of administrative burden imposed on citizens and legal entities;*
- 4) *optimization and increasing efficiency of operation of executive bodies by introducing electronic inter-agency cooperation and electronic document flow;*
- 5) *provision of administrative services in electronic format.*

The only evaluation of public administration reform the citizens could make is the way of services provision: the way they are transparent and accessible. Decentralization and digitalization of most of these services should minimize the level of corruption and distrust in public bodies which provide them. It is remarkable that one of the indicators for success is “*% of customers satisfied with the quality of administrative services provided by administrative service centers*” with *no baseline data*, which means that before 2019 there was no access to data and no feedback from primary customers. It is important to note that one of the most important parts would be the adoption and successful implementation of the law on Administrative Procedure.

5.1.3. Further steps of public administration reform

Planned steps are outlined in the PARS action plan, however, it has been visible from the delegation of functions from the Government to other executive bodies, *politically difficult and unpleasant parts of the reform sometimes could ‘get lost’*. At the same time, deadlines for the activities, which were not done on time, get extended with new amendments to the PARS. Nevertheless, the actions for PARS were extended through 2021.

In its report, SIGMA provided the government with short (1-2 years) and medium-term (3-5 years) recommendations on each of six key areas: *the strategic framework of public administration reform; policy development and co-ordination; public service and human resource management; accountability; and service delivery.*²⁹⁶ The report has clearly defined what kind of amendments should be in place to make each of key areas work better. The revised version of the strategy in 2018 already included some of the suggestions from the SIGMA report.

²⁹⁶ SIGMA: Baseline Measurement Report: The SIGMA report Ukraine 2018, <http://www.sigmax.org/publications/Baseline-Measurement-Report-2018-Ukraine.pdf> (accessed 18.09.2018)

Further, I will shortly outline what was recommend by the SIGMA experts and what is already included in the version of PARS revised in 2018.²⁹⁷ Not all recommendations are within the mandate of public administration reform and many of them go beyond the PARS. For example, some concern the role of parliament and other executive bodies or even EU integration-related structural unit.

Area of Strategic Framework of Public Administration Reform:

- 1) The Strategy should set realistic deadlines and have responsible structural units and targets for all indicators. These recommendations were not met in the sphere of responsibility assignments, as there are still only public bodies responsible for activities.
- 2) According to the version of PARS revised in 2018, costing for all the activities was already in place, which shows that the second indicator was technically considered by the government. However, there are only three types of financing: “within state budget”, (within the framework of the program “Support to the implementation of comprehensive public administration reform”), international technical assistance and Grant Agreement No. TF OA5324 between the World Bank and the Government of Ukraine (which related to HRMIS-related activities implementation)
- 3) The following recommendations include constant discussions of the activities to ensure their implementation, as well as communications of those activities with stakeholders and also the need to include non-governmental actors into discussions and consultations. This recommendation could be enhanced, as there are PAR Council meetings and non-civil servants’ actors are part of this Council.²⁹⁸

Area of Policy Development and Co-ordination:

- 1) The mandate of the ‘center of government’ bodies (the Ministry of Justice, the Ministry of Finance, the Ministry of Economic Development and Trade, the Secretariat of the Cabinet of Ministers) should be clarified to avoid overlapping and the Secretariat should be empowered to check the accordance of draft legislation with the plan of Government priorities. Functions of the monitoring and evaluation of the work of the government should be undertaken by one body: the Secretariat of the CMU.

²⁹⁷ For references see Public administration reform strategy through 2021 and SIGMA Baseline assessment report for Ukraine 2018

²⁹⁸ Verkhovna Rada of Ukraine: On public administration reform Coordination Council, <https://zakon.rada.gov.ua/laws/show/335-2016-%D0%BF> (accessed 18.08.2019)

- 2) A clear deadline should be established for proposals submission to the Cabinet of Ministers session and it should be met, and the Cabinet should have the right to return draft legislation if it arrives late.
- 3) The Association Agreement Action Plan should be in line with the Government Priorities Plan, the activities should have costing and other strategies should be in line with those action plans. The relevant methodologies should be in place to ensure their coherence. Reports should be published annually.
- 4) Legal drafting procedures should be standardized and enhanced. Public consultations should be in place and the quality of policy analysis should be increased.
- 5) Legislation drafted by MPs should be sent to the Government for their consideration.
- 6) Line ministries should stop the practice of sending the legislation through MPs to avoid the procedure of the government and public discussion.
- 7) The European integration committee should work on a political level regularly to ensure all European integration-related activities.
- 8) As a medium-term recommendation, the share of laws adopted by the parliament after just one hearing should be reduced.
- 9) Another medium-term recommendation was related to the guidelines for planning and monitoring EU assistance to enhance support to the administration.

Overall, these recommendations are related to the Regulation of the Cabinet of Ministers of Ukraine and the first two are in place in the Regulation, however, they are ignored by representatives of the Cabinet of Ministers, and this mostly related to the culture of politicians. Other dangerous practices like protocol decisions and laws “*by voice*” are threatening the transparency and accountability of governmental decisions.²⁹⁹ Legal drafting requirements are in place as well as public consultations. Overall, the Regulation is very big and since 2007, when it was first adopted, it was amended 70 times. At the same time, most interviewees highlighted that the Regulation has rather a formal character and most decisions are political and not analytically supported, which makes them either declarative or partially implementable.

There is an issue with the ‘lack of methodological guidelines’ and as a result, chaotic and unstructured planning with many of the missed activities was described by an external expert³⁰⁰ as a problem of political will, not a lack of methodologies or guidelines: “*if there is no will to adapt legislation, there*

²⁹⁹ ZN,UA, Vyshnevskiy Andriy; Kondyk, Pavlo, 3 February 2018: Why and how should the Cabinet be reformed, and what prevents it from doing so?, https://dt.ua/internal/chomu-i-yak-treba-reformuvati-kabmin-i-scho-zavazhaye-ce-robiti-268125_.html (accessed 18.08.2019)

³⁰⁰ International expert of the EU funded project “Support to the implementation of the EU-Ukraine Association Agreement”

will be a hundred reasons why we cannot do it. In the case of Poland, there was no guidelines on how to adapt legislation, it is a purely technical work of lawyers”. Nonetheless, a lack of coherence and guidelines was described as a thing to address.

Area of Public Service and Human Resource Management:

- 1) Responsibility for policy coordination of the civil service sphere should be specified by the government;
- 2) HRMIS launch should be ensured by the National Agency of Ukraine for Civil Service;
- 3) New procedures for recruitment, remuneration and jobs classification should be on one website which is updated regularly. The composition of selection committees should be improved as well as methods for interviews of those committees;
- 4) Public disclosure of civil servants’ salaries should be improved;
- 5) The National Agency on Corruption Prevention should have automatic declarations check;
- 6) For the medium-term, the government should have clear criteria for salary variables and limit those variables;
- 7) The sustainability of reform staff positions should be ensured;
- 8) The deadline for the length of time to impose disciplinary sanctions should be at least three years.

The Government works on HRMIS, which allows the transfer of all paper HR-related activities in IT and makes it easily accessible and updated. The Government has already cut the share of variable bonus from infinite to 30%, although other variable parts of it remained as they were before. Civil servants’ salaries are visible for everyone with the launch of online declarations, where all income and spending of civil servants are reflected. For reform staff positions, their salaries remain questionable to sustain, as the new government could revise the idea of ‘think-tank’ expert groups within the ministries and suggest a transformation.³⁰¹

Other outstanding issues of public administration reform include the incompleteness of reforming ministries and the absence or unclear legislative regulation of the functions and powers of ministry structures. There is no clear accountability system for central executive bodies (agencies, services and inspections), unreformed bodies and functions, no clear division of functions and powers between ministries and other CEBs. There is no clear, legally mandated system of policy analysis and strategic planning or an effective system of governmental decision-making and budgetary allocation based on

³⁰¹ Ukrinform, Lena Samohvalova, 19 September 2018: Sergiy Soroka, expert of the Reanimation Reform Package Civil servants’ salaries are already competitive, <https://www.ukrinform.ua/rubric-polytics/2540582-sergij-soroka-ekspert-reanimacijnogo-paketu-reform.html> (accessed 23.10.18)

qualitative analysis. The legally unregulated system of administrative procedures and the mechanism of providing administrative services are complex and excessively centralized. State property, institutions and state-owned enterprises are inefficiently managed. The activities of the executive are not very closely monitored by the public. The system of formation and allocation of state and local budgets by priorities lacks transparency.³⁰²

Area of Accountability:

- 1) Prior to reorganization the government should ensure that a methodological framework is in place and that it includes the following: a coordination institution responsible for reorganization, the scope of government functions and unnecessary should possibly be eliminated, service delivery functions should be analyzed for their delegation, outsourcing, etc.
- 2) Decentralized management culture within the ministries should be promoted, obstacles to this should be eliminated via legislative amendments.
- 3) The Ministry of Justice together with the Ministry of Finance and the State Judicial Administration should create a mechanism to monitor public liability cases to scale down the number of such cases.
- 4) Other issues of accountability improvements in the short-term concern Ombudsman. The main thing is to make this institution not quasi-prosecution, but more accountable and to perform watchdog functions.
- 5) As for the medium-term, the government should develop a steering model for ministries' subordinate executive bodies and have in place levels of autonomy for different types of bodies.
- 6) Access to public information should be monitored and coordinated in a more efficient way, and possibly a new responsible body should be established.

Points one and two are within PARS. Functional review, needed prior to reorganization, took place in ten pilot ministries to define their scope of functions and spheres of politics. A functional review of non-ministerial executive bodies is planned for the last quarter of 2021 and a functional review of the Secretariat of the Cabinet of ministries for the first quarter in 2020. No information on decentralized management or delegation of functions is within the PARS Action Plan. Correspondently, this could change with the change of political leadership of this reform after

³⁰² ZN,UA, Soroka, Sergiy, 7 December 2018: Public administration reform - to pass the "point of no return" to elections, https://dt.ua/internal/reforma-derzhavnogo-upravlinnya-proyti-tochku-nepovornennya-do-viboriv-296448_.html (accessed 23.10.18)

elections. The Ombudsman's institute reform is separate from public administration reform and has a separate strategy, hence, it would not be discussed here.

Area of Service Delivery:

- 1) The Ministry of Justice should prepare the Law on Administrative Procedure and Parliament should adopt it.
- 2) Coordination between service delivery reform bodies should be improved by reviewing and clarifying their roles and responsibilities.
- 3) Digitalization and administrative services re-engineering should be established in the government and training on e-governance should be ensured by the National Agency of Civil Service as well as heads of IT departments within other governmental bodies.
- 4) Other IT services should be widely implemented and updated, and they should be accessible and user-friendly. This concerns internal and external access to information and services.
- 5) Medium-term goals in the service delivery area concern broader digitalization and improvement of physical and electronic services accessibility to people with special needs. Other activities concern the actual implementation of the Law on Administrative procedures.

The first recommendation has been adopted quickly, however, it has not been adopted by Verkhovna Rada. Further digitalization of services and simplification of procedures is needed, and this also has been highlighted by the new President: government in smartphone must be adjusted to the current public services reform.³⁰³

Most activities related to services should be undertaken either by the Ministry of Economic Development and Trade or by the local authorities. Assuming the ongoing decentralization reform, which is separated from public administration reform, most of the activities related to public services are part of another reform.

To sum up, Ukraine undertook a long path to reform its public administration system since gaining independence in 1991, though these attempts had neither a structured nor fundamental character since there was none responsible for the public administration body and horizontal coordination functions were usually marginal and divided between several institutions or even politicians. The unstable political situation made things with horizontal functions only worse over time. Responsibilities mutually taken by the EU and Ukraine to implement the Association Agreement influenced the

³⁰³ Radio Svoboda, 15 August 2019: Public Administration Reform: Would Zelenskyi accomplish what Poroshenko did not, <https://www.radiosvoboda.org/a/30111246.html> (accessed 20.08.2019)

situation where the EU has to demonstrate its loyalty and Ukraine has to do its 'homework' and implement necessary legal sectoral obligations.

Public administration reform through 2021 (PARS) is not the first attempt of the government to undertake essential changes and modernize public administration and civil service, but this reform is the first one based on the need to enhance governmental capacity and based on the SIGMA criteria for good governance. PARS is the first reform of public administration which has a coordination, monitoring and evaluation center within the government. Obligations undertaken by Ukraine to legally approximate national legislation with the *acquis* created adaptational pressure from the side of the EU and made the domestic system to implement necessary changes. To do this, thousands of public servants in central executive bodies must bear 'technical' legal approximation work and politicians have to vote for adapted acts. The public administration of Ukraine lacks modern processes and procedures for technical work, which is reflected in the low AA implementation rate.

PARS has an action plan which gets regularly monitored and updated. The action plan is divided with accordance to the areas where an impact is needed. All of the areas of public administration are interconnected: without proper policymaking and strategic planning, there are no accountable and transparent governmental decisions and without motivated, educated and well-paid civil servants, there are no proper policy papers or provision of administrative services.

Public administration reform, the background for which appeared in 2016, came into its active phase only in 2018 once the financial support was disbursed over ten pilot ministries, two agencies and the Secretariat of the Cabinet of ministries. New structures (directorates) began to work on their filling of reform staff positions. Directorates' work has been targeted on policy development enhancement. Staff employed in 2017-2018 overcame a demanding competition procedure and received fixed salaries, which exceed the salaries of other public sector employees. It is too early to evaluate the work of directorates in the sense of policymaking and strategic planning, as new procedures and requirements are not yet in place, however new recruiting procedures are in place and the civil service has become much more attractive with stable and predictable salaries. New centers for administrative services appear as a part of public administration and decentralization reforms. Furthermore, there are already achievements and plans on what to implement further, but all of this should be properly coordinated on both a political and technical level.

5.2. Domestic costs of public administration reform adoption and implementation

Firstly, there come social costs for public administration reform and secondly there are financial expenditures. *Social costs* are the most important outcomes of this reform, as it implies that policy-forming functions should be enhanced within the ministries and such policy implementing functions as *administrative services provision, inspections or maintenance of state-owned enterprises and properties* should be eliminated, transferred or delegated to other public entities. Other important issues which should be solved are civil service *politicization and its dependence on highly variable salaries*. One of the most important things in the reform process is the issue of over-ambitious goals and many draft laws which are not adopted. Apart from the above-mentioned issues, the contemporary state of play of the public administration in Ukraine has been described by the PARS as *non-corresponding* to the needs of the government to undertake complex reforms as well as to the declared pro-European orientation of Ukraine.

Necessary social costs would include massive human resources modernization with the large amount of newly employed civil servants including the *depoliticization of civil service* with introduction of fixed and predictable salaries as well as the separation of political and civil service appointments. This should lead to the sustainability of the civil service. Politicians tend to focus on short-term political priorities to stay in power rather than focusing on long-term planning, which is essential for state capacity building.³⁰⁴ This prioritization, with accordance to the PARS, has to gradually change its focus to long-term and political priorities, rather than on operational appointments for state enterprises or governmental decisions on minor issues.

Domestic costs of rule adoption were discussed in the theoretical part. However, they are difficult to measure in a proper way since there is no clear estimation of costs to invest and possible profit. The only needed cost from politicians is political will and steering of this reform. Simultaneously, it is the most important part of any activity and of any change planned by the government. Referring to the laws on state budget for 2016-2019, there was no cost allocation for 2016 and 2017, although the action plan for the Strategy of Public Administration Reform through 2021 foresaw activities from 2016, which could not be implemented because of a lack of financing.

As the public administration reform acts within its action plan, financial sources are very important as the previous reform attempt failed because of a lack of financing.³⁰⁵ Without this new competition

³⁰⁴ Wolczuk, Katarzyna; Žeruolis, Darius (2018): Rebuilding Ukraine: An Assessment of EU Assistance, Chatham House, p. 3, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-08-16-rebuilding-ukraine-eu-assistance-wolczuk-zeruolis.pdf> (accessed 07.03.2019)

³⁰⁵ Legal advisor from and NGO BRDO (Better Regulation Delivery Office)

and new salaries for reform staff positions it would be impossible to implement. Hence, without financial support, social or political impact would just be declarative.

The financial aspect of the *cost of rule adoption* of PAR has been identified within the Strategy and has an approximate estimate for its reform areas. However, the cost allocation for 2017 took place with accordance to the Resolution of CMU 647,³⁰⁶ which was adopted only on *18 September 2017*. This issue has been highlighted by the Accounting Chamber of Ukraine, as the beginning of the PARS implementation was *delayed for more than nine months* because of insufficient costing and delays in the adoption of the resolution which regulates cost allocation for PAR.³⁰⁷ Simultaneously, the misfit between actual and planned financial support of PAR-related activities created a situation when actual implementation of PAR has been suspended. SIGMA, from its side, evaluated PARS financial sustainability at level ‘0’, which corresponds to ‘none’. This refers to the separate programme for the financing of reform staff positions (RSP) within pilot institutions and makes it ‘temporary’ and ‘unnecessary’ for other civil servants.

The state budget foresaw cost allocation for 2018 and 2019, where most of the budget for public administration reform is supposed to be spent on salaries, while no costs were allocated for 2016 and 2017.³⁰⁸

Year	Name of programme	General fund					Total expenditure
		Total expenditure	Consumption expenditures	therefrom:		Development expenditures	
				Payroll	Utilities and energy expenditures		
2019	Support for the implementation of a comprehensive reform of public administration	1 230 698,4	1 000 698,4	820 244,6	0,0	230 000,0	1 230 698,4
2018		422 622,3	377 904,3	309 775,7	0,0	44 718,0	422 622,3
2017		-	-	-	-	-	-
2016		-	-	-	-	-	-

Table 8: Financing of public administration reform in 2016-2019, translated by the author and extracted from Laws on State budget for 2016-2019

The Accounting Chamber of Ukraine conducted an evaluation of the efficiency of the resources allocated for PAR, which covers 2017 and 7 months of 2018. It is important to underline the role of

³⁰⁶ Verkhovna Rada of Ukraine, 18 September 2017: Some issues of the implementation of a comprehensive reform of public administration, <https://zakon.rada.gov.ua/laws/show/647-2017-%D0%BF> (accessed 15.10.2018)

³⁰⁷ Accounting Chamber of Ukraine: Report on the Results of the Audit of the Effectiveness of Usage the State Budget on Measures to Implement A Comprehensive Reform of Public Administration, http://www.ac-rada.gov.ua/doccatalog/document/16758138/Zvit_27-1_2018.pdf?subportal=main (accessed 15.01.2019)

³⁰⁸ See Table 8

the Accounting Chamber as a controlling executive body subordinated to the Verkhovna Rada of Ukraine and with the function of control. The only initiative to reform public administration came from the government. Reform of other branches of power does not go in parallel. An audit established that the State Budget of Ukraine allocations approved for the implementation of PAR were 1,930.7 million UAH for the mentioned period. But only 674,1 million UAH were allocated, which is 34.9%, and central executive bodies used 205,1 million UAH, which is only 30.4% of the allocated funds.³⁰⁹

Further, the report insists that the amount of remuneration for RSPs is extremely high, compared to the regular civil servants' salaries, by comparing the salary level in one of the highest paid bodies, which is the Ministry of Foreign Affairs (22,5 thousand UAH) to the same level RSP (36,6 thousand UAH).³¹⁰ The Accounting Chamber also warned of possible consequences of such a decision: the situation could demotivate current employees and create inner tensions within the organization, as well as a duplication of functions and non-effective financial management. Simultaneously, inefficient budget planning created a situation where 55,6 million UAH were spent in an inefficient way.³¹¹ Hence, as the senior civil servants responsible for the reform did not have experience with proper public financial management, the given allocations were spent in inefficiently.

5.2.1. PAR support from the politicians and civil society

The impact of Europeanization over national public administrations in post-communist countries has been discovered to be more distinct than in Western European countries.³¹² The sustainability of the undertaken reforms in the pre-accession period in CEE countries was discovered only after many years and there are issues arising with their reversibility. Domestic actors may reconsider undertaken changes as too costly, which could bring a problem of their abolishment. The ENP case differs as there is no accession perspective as of 2018 and EU adaptational pressure has very limited impact over domestic actors and structures. The cost of rule implementation is very high, as there have been very little steps made in adapting domestic institutions to the 'European' style. At the same time, there is no definite timeframe for the 'rewards' from the EU as membership perspective is unforeseeable. Hence, on the domestic level the reform-minded actors remain the most influential, as

³⁰⁹ Accounting Chamber of Ukraine: Report on the Results of the Audit of the Effectiveness of Usage the State Budget on Measures to Implement A Comprehensive Reform of Public Administration, p. 20 http://www.ac-rada.gov.ua/doccatalog/document/16758138/Zvit_27-1_2018.pdf?subportal=main (accessed 15.01.2019)

³¹⁰ Ibid. 31

³¹¹ Ibid. 43

³¹² Sedelmeier, Ulrich (2012): Is Europeanization through Conditionality Sustainable? Lock-in of Institutional Change after EU Accession, *West European Politics*, 35(1), 20-38

they accumulate and transform EU assistance to communicate changes, mitigate influence of veto-players and find new allies.

As for Ukraine, its political elites have never expressed their non-willingness to Europeanize, rather to the contrary: the declarative statements are standard, nonetheless they remained far from actual implementation, as there is no political power that declares to enforce necessary reforms.³¹³ A change in the EU vector is highly unlikely as reshaping political course to 'Slavic' or 'Eurasian' would be very unpopular and threaten to cause demonstrations. Ideological parties in Ukraine are missing and the main function they perform is rent-seeking, hence, stable Ukrainian political partners for Ukraine to rely on bringing Europeanization change are absent for the EU.³¹⁴ Hence, the approach to 'create closer ties with EU' remains, though it continues to be insufficient in its implementation.

Sociological surveys regarding the willingness of Ukrainians to join the EU or NATO, and their attitude towards these organizations were organized quite often by various organizations. Surveys as of 2018 represent data which shows more than 50% support to the EU accession. Another survey shows 45,9% of support for integration into the EU, and it also showed that 75.3% of Ukrainians believe that the political leaders have steered the country in the wrong direction.³¹⁵ From 2013 to 2017, the only improvement in the opinion regarding whether the country is moving in the right direction was in April 2014, when President V. Yanukovich left his post and before the armed conflict with Russia started. President P. Poroshenko highlighted the data, based on undertaken surveys: in 2013, NATO membership was supported by 16% and EU integration by only 33% of Ukrainians. In 2018, it is 54% and 74%. As P. Poroshenko stated, this is a result of Russian aggression.³¹⁶

Overall, the attitude of Ukrainians towards the EU and Europeanization is positive, though there is a lack of understanding of EU institutions and the meaning of Europeanization. Kovács and Leipnik have explained this situation as following:

³¹³ Wolczuk, Kataryna (2003): Ukraine's Policy towards the European Union: A Case of 'Declarative Europeanization' http://www.batory.org.pl/ftp/program/forum/eu_ukraine/ukraine_eu_policy.pdf (accessed 03.02.2019)

³¹⁴ Solonenko, Iryna (2010): The EU's 'Transformative Power' towards the Eastern Neighbourhood: the Case of Ukraine. SPES Policy Papers. Berlin: Institut Für Europäische Politik, p. 13

³¹⁵ UNIAN, 17 July 2017: Sociologists told about the attitude of Ukrainians to joining NATO and the EU, <https://www.unian.ua/society/10191186-sociologi-rozpovili-pro-stavlennya-ukrajinciv-do-vstupu-u-nato-i-yes.html> (accessed 05.11.2018)

³¹⁶ Ukrinform, 30 September 2018: Poroshenko: Now more than 54% of Ukrainians want to join NATO, 74% in the EU, <https://www.ru/rubric-polytics/2548780-poroshenko-sejcas-v-nato-hotat-bolee-54-ukraincev-v-es-74.html> (accessed 05.11.2018)

“‘Europeanization’ has been built through politicians’ mystifications, and with average people’s dreams about a ‘better life.’ These dreams had been defined by a low standard of living and psychological discomfort from feelings of despair. Their goal was to influence the situation in the country in personal and family life — mostly in a sense of more property and independence from a totalitarian system. The standards that eastern European countries in general and Ukraine in particular, struggle so hard to reach are not clear enough to function as a goal for society to move towards.”³¹⁷

Coming back to the aspiration of Ukraine for its membership in the EU and, accordingly, to the rule selection for further adoption, Langbein and Wolczuk³¹⁸ described Ukraine’s strategy for Europeanization as *“maximizing commitments to maximize benefits”*, where benefits play a role of securing a membership perspective for politicians and a modernization background for government officials.

As most of the interviewees stated, the most important hindrance to the further implementation of the reform is the unstable internal political situation with its lack of *political culture*, frequent changes of government and political course. Hence, the elections in 2019 could dramatically change the approach not only to public administration reform, but to other reforms as well.³¹⁹ However, according to the Constitution of Ukraine, the Government is responsible for internal policy implementation. There is no clear indication in the Constitution regarding which body is responsible for policy development and implementation in the sphere of public administration; however, the Government is responsible for public administration and management of state-owned enterprises according to several laws and regulations. Hence, the coordinator of PAR is the Cabinet of Ministers of Ukraine. In such a context, support from Verkhovna Rada and the Presidential Administration is considered complementary to Government efforts.

The role of the Presidential administration and the President itself is very important on the stage of forming the personnel composition of the Government. Ideally, the President must have a majority of his supporters in Ukrainian parliament in order to appoint the Prime minister, to form the Government and to approve the Government Action Plan. A similar situation took place in 2016 when

³¹⁷ Kovács, Melinda; Leipnik, Olena (2008): The Borders of Orientalism: “Europeanization” in Hungary and Ukraine, *Debate: Journal of Contemporary Central and Eastern Europe*, 16:2, 151-169, p. 157

³¹⁸ Langbein, Julia; Wolczuk, Kataryna (2012): Convergence without membership? The impact of the European Union in the neighbourhood: evidence from Ukraine, *Journal of European Public Policy*, 19:6, 863-881, p. 876

³¹⁹ Head of the Expert Group of the Effectiveness of the System of Central Executive Bodies, the Directorate of Public Administration, Secretariat of the Cabinet of ministers of Ukraine

the reform started and the Parliament did not hinder the process. This evolved in May 2016 when the Law on Civil Service came into force, which had been approved by Parliament in late 2015.

In anticipation of the upcoming Presidential and Parliamentary elections in 2019, taking into account that some changes in legislation regarding the division of responsibilities are unlikely to happen, it is important to define the main veto players who could further hinder PAR implementation in Ukraine, and those who can proceed with the PAR agenda further. Such information may be helpful in defining the prospects of further reform implementation.

In February 2019, Verkhovna Rada approved changes to the Constitution of Ukraine,³²⁰ which entrenched the strategic course of the country on joining the EU and NATO. The President of Ukraine, who initiated these changes, justified them with the necessity of continuing reforms in the country. According to these changes, the Cabinet of Ministers of Ukraine was tasked with ensuring the implementation of the strategic course of the state for acquiring full-fledged membership of Ukraine in the EU and NATO. However, several Ukrainian experts considered such a move as a populist. European Commission representatives carefully commented on such a move, stressing the importance of the implementation of the EU-Ukraine AA.³²¹ Therefore, the Coalition agreement and subsequently the Government Action Plan, which will be formed after Parliament elections in October 2019, should have a strategic course based on joining the EU and NATO.

It is also worth mentioning the role of separate ministers, who are representatives of different political forces. Although the Government is a collegial body, which undertakes decisions on the basis of consensus, some ministers may consider the implementation of Government decisions differently, so the risk that some ministers could become veto players remains high.

Civil society is also present in public administration reform; however, it remains weak and rather incapable of proper advice or consultations. The PAR Coordination Council has two representatives from civil society: the Chairman of the Board of the Center for Political and Legal Reforms,³²² and the Representative of the public initiative the “Resuscitation reform package”.³²³ Such involvement of civil society in the context of public administration was rather a formality, as one of the

³²⁰ Verkhovna Rada of Ukraine, Draft Law on Amendments to the Constitution of Ukraine, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64531 (accessed 12.03.2019)

³²¹ ZN,UA, 1 March 2019: EC Vice President Announces Prospects for Ukraine’s EU Membership, https://zn.ua/UKRAINE/vice-prezident-ek-ozvuchil-perspektivy-ukrainy-na-vstuplenie-v-es-310435_.html (accessed 12.03.2019)

³²² Centre of Policy and Legal Reform: Founder, <http://www.pravo.org.ua/ua/about/founder/> (accessed 12.03.2019)

³²³ Reanimation Package of Reforms: Sergiy Soroka: Agents for change in government: what went wrong and how to make government reform successful?, <https://rpr.org.ua/news/serhij-soroka-ahenty-zmin-v-uryadi-scho-pishlo-ne-tak-i-yak-zrobyty-reformu-uryadu-uspishnoyu/> (accessed 12.08.2019)

representatives wrote on the ‘fuckups’ of the public administration reform and criticized it a lot in his articles, as he involvement of the civil society representative had no real impact, as it was impossible to overcome the described issues.³²⁴

5.2.2. Views and election agendas of the leaders of the presidential and parliamentary election race

In this context it is important to consider the current views and election agendas of the leaders of the Presidential election race.

From the other hand, SIGMA considers PAR as a means of establishing closer links with the EU, which is strongly supported by the EU Support Group for Ukraine and by the European Commission through the EU Delegation.³²⁵ Hence, it is reasonable to assume that the EU considers successful implementation of the reform as a prerequisite for further and comprehensive Europeanization of the country. On the other hand, considering the political tendencies since 2014 and strong support of the so called “European course” by civil society,³²⁶ all candidates for the presidency with a chance to win highlight this course except for Y. Boyko and V. Zelenskiy.

The only agenda item of Y. Boyko related to public administration concerns changes on the local level.³²⁷ The agenda of V. Zelenskiy slightly attached to “e-governance” without further detail.³²⁸

Two other “heavyweights” of Ukrainian politics, who according to polls have good chances to be elected, are acting President Petro Poroshenko and former Prime Minister Y. Tymoshenko. These candidates made memberships in the EU and NATO as a main point of their electoral agendas.

Petro Poroshenko’s agenda has several strong mentions about further Europeanization of the country and a notion that only full membership of Ukraine in the EU can guarantee the country’s national security.³²⁹ As mentioned earlier, the President and his team made the possible adoption of changes to the Constitution of Ukraine related to the EU-NATO strategic course.

³²⁴ Ekonomichna Pravda, Sergiy Soroka, 27 August 2019: Fuckups of public administration reform. Why ideas did not become reality?, <https://www.epravda.com.ua/columns/2019/08/27/650979/> (accessed 01.09.2019)

³²⁵ SIGMA: Baseline Measurement Report: The SIGMA report Ukraine 2018, p. 5, <http://www.sigmaxweb.org/publications/Baseline-Measurement-Report-2018-Ukraine.pdf> (accessed 18.09.2018)

³²⁶ Rating Group Ukraine, 30 November 2018: 3The population's support for the European integration and joining the NATO remains unchanged, <http://ratinggroup.ua/research/ukraine/354a0dde7bc4bd5e6fa291b0bd1dc997.html> (accessed 12.03.2018)

³²⁷ Central Election Commission of Ukraine, Candidate for presidency Yiriy Boyko profile, p. 2 of the election agenda, <http://www.cvk.gov.ua/pls/vp2019/WP001> (accessed 12.03.2018)

³²⁸ Central Election Commission of Ukraine, Candidate for presidency Volodymyr Zelenskiy profile, p. 7 of the election agenda, <http://www.cvk.gov.ua/pls/vp2019/WP005?PT021F01=233&PT001F01=719> (accessed 12.03.2018)

³²⁹ Central Election Commission of Ukraine, Candidate for presidency Petro Poroshenko profile, <http://www.cvk.gov.ua/pls/vp2019/WP005?PT021F01=295&PT001F01=719> (accessed 12.03.2018)

The candidate for presidency Y. Tymoshenko does not have in her election agenda direct references to PAR, but there is a reference to “The New economic course of country”, which is a 400 page document that includes proposed steps to reforming public administration bodies, creation of new, effective processes in management and their digitalization, etc.³³⁰

Considering the above information, the overall tendency is that the election agendas of the main players of the election race have a populist nature and do not include much specification of proposed changes. Consequently, in most agendas PAR is not mentioned as a priority. However, it does not mean that the further implementation of PAR in Ukraine will be abandoned or hindered. There is still no political force which could oppose PAR implementation as suggested by the EU. Candidates mostly support a further European course of the country.

To sum up, after the elections PAR is likely to be driven mostly by external conditionality such as continuous political, financial and technical support by the EU, and there will be no strong veto players among the Ukrainian political establishment who could negatively influence reform implementation. The winner of the presidential race will likely continue support of the implementation of PAR. The newly elected Verkhovna Rada, which will be formed around the current political leaders, will form a Coalition agreement with an emphasis on PAR, and the Government Action Plan will likely have such references as well.

Another important thing to evaluate in Ukraine is the point of view of the political parties which will form the government in 2019. On May 20, 2019, the newly elected Ukrainian President V. Zelensky proclaimed an early parliamentary election during his inauguration speech,³³¹ as elections were initially scheduled to be held in October 2019.

According to the Law of Ukraine on the election of people's deputies, political parties during the registration process must submit an election program to the Central Election Committee of Ukraine which is then published on the Central Election Committee website.³³²

According to the results of elections as of July 23, 2019, there are five political parties, which will enter Parliament (except those who will enter as self-nominated candidates):

³³⁰ Central Election Commission of Ukraine, Candidate for presidency Yulia Tymoshenko profile <http://www.cvk.gov.ua/pls/vp2019/WP005?PT021F01=225&PT001F01=719> (accessed 12.03.2018)

³³¹ The New York Times, Mendel, Iuliia; Nechepurenko, Ivan, 20 May 2019: Ukraine's New President Dissolves Parliament and Calls a Snap Election, <https://www.nytimes.com/2019/05/20/world/europe/ukraine-zelensky-parliament-election.html> (accessed 12.06.2019)

³³² Verkhovna Rada of Ukraine, Law on the election of the People's Deputies of Ukraine, <https://zakon.rada.gov.ua/laws/show/4061-17> (accessed 12.06.2019)

- 1) Slyha Narody (Servant of the People party);
- 2) Opposuciyna Platforma za Zhittya (Opposition Platform for Life);
- 3) Evropeiska Solidarnist (European Solidarity);
- 4) Batkivshchyna (Homeland);
- 5) Golos (Voice).

All election programs of these parties are published on the Central Election Committee website.³³³

After the elections, Slyha Narody formed a government by itself. Hence, the new action plan will be based on the political position and program tasks of one party.³³⁴ The election program of the Servant of the People party does not contain direct emphasis on Public Administration Reform. In the beginning of the document, there is an indication that the party is intended to form a professional government, which will have credibility in society. Some elements of PAR are scattered among other items of the election program, such as the introduction of the mechanisms of influence of society on the government's decision through referendums, further decentralization of power to local communities, making a majority of public and administrative services online, conducting an audit of state functions and reducing the number of state bodies.³³⁵

Other parties, which are also represented in parliament, have their own programmes as well. The election programme of the Opposuciyna Platforma party is mostly centered on peace building in the East and renewing relations with Russia, as well as a transformation of the system of social welfare. The election programme does not contain provisions related to PAR, except one regarding broadening the powers of local communities.

The election program of the Batkivshchyna party is called “The new Ukrainian course” and is politically left wing oriented – it is centered on reforms in the social, pension and education spheres, reduction of utility tariffs, etc. It does not contain any provisions which can be directly attributed to PAR.³³⁶

³³³ Central Election Commission of Ukraine, Early elections of People's Deputies of Ukraine 2019, <https://www.cvk.gov.ua/pls/vnd2019/wp501pt001f01=919.html> (accessed 12.06.2019)

³³⁴ Verkhovna Rada of Ukraine, Law on the Cabinet of Ministers of Ukraine, <https://zakon.rada.gov.ua/laws/show/794-18> (accessed 12.06.2019)

³³⁵ Central Election Commission of Ukraine, political party “Sluha Narody”, <https://www.cvk.gov.ua/pls/vnd2019/wp502pt001f01=919pf7171=403.html> (accessed 12.06.2019)

³³⁶ Central Election Commission of Ukraine, political party all-Ukrainian Association “Batkivshchyna”, <https://www.cvk.gov.ua/pls/vnd2019/wp502pt001f01=919pf7171=328.html> (accessed 12.06.2019)

Conversely, the election programme of the Evropeiska Solidarnist party is politically right wing oriented and centered on enhancing the national security and defense sectors, promotion of patriotism and European integration. There are two items in the program related to PAR: completion of decentralization and administrative reform, as well as simplification and digitalization of administrative procedures.

The election programme of the Golos party contains provisions related to PAR similar to those of previous parties, and it lays out a goal of making state machinery more compact and effective, as well as cutting some “unnecessary” state functions. In addition, there is a provision regarding the digitalization of public services. In this party’s interpretation, it implies that there is no direct contact between civil servants and citizens, so there is little room for corruption.³³⁷

To sum up, the election programmes of the top-5 Ukrainian political parties share common features related to PAR, specifically:

- 1) PAR is not among priority actions which will be taken by representatives of the abovementioned parties while in power. PAR elements are represented only partially.
- 2) Proposals, aims and measures included in election programmes related to PAR are not detailed, complex, nor comprehensive and do not cover such important parts of PAR as a target model of the executive power branch, protection of civil servants from political influence, system of remuneration for civil servants, etc. It is largely because such programmes are documents of 3-4 pages of a populist nature which are frequently formed without a deep assessment of the state of affairs with sole aim of attracting a majority of voters. Furthermore, it is an obligation of the party to submit an election programme to the Central Election Committee according to the Law, so some parties prefer only a formalist approach;
- 3) Proposals are vague and without further elaboration, which then can be interpreted in various ways, especially in the case of proposals for cutting state functions.
- 4) Proposals and measures regarding PAR in election programmes do not contain quantitative nor qualitative indicators, so it will be difficult to monitor and control their implementation.

Therefore, there is no certainty regarding the particularities of the introduction of PAR nor its elements in the priorities of work for the next Government. However, considering that major donors including the USA, the EU, Germany, Canada, etc. are in favor of the continuation of PAR in Ukraine

³³⁷ Central Election Commission of Ukraine, political party “Golos”
<https://www.cvk.gov.ua/pls/vnd2019/wp502pt001f01=919pf7171=389.html> (accessed 12.06.2019)

and commonly act as strong partners in its implementation, there is a chance than the reform would continue. This notion was reasserted on December 3, 2018 in the National Donor Coordination Forum “Partnership for development” Declaration,³³⁸ and it is likely that the donor community can push for the inclusion of the continuation of PAR in the next programme or other strategic documents of the country.

5.3. Conclusion

Public administration reform in Ukraine has a declarative and piecemeal character. Before 2016, politicians used it as an excuse to justify reorganizational decisions based on the divisions of spheres of influence between elites. Regardless of the lack of political maturity and culture, where political parties represent their leaders or specific interest groups, but not political ideology, the actual financing of the reform began in 2017. Since the public administration system and structures are rather an internal managerial issue, the role of civil society in this reform is limited and most of the attention is being paid to the political will and motivation to change the *status quo*. Simultaneously, this has not been a priority, as with manual management together with the lack of transparency, it is easier to lobby for private interests regardless of public interests.

Public Administration Reform Strategy through 2021 (PARS) became the first attempt to reform public administration in line with the SIGMA Principles of Public Administration. These principles are used as a regular measurement for potential candidate countries; however, Ukraine initiated its own assessment. Based on this and the discovered misfits with the SIGMA report, PARS was updated in 2018, and this has been claimed as a step forward towards building a European model of governance.³³⁹ The strategy aims to enhance the capacity of the state for strategic planning and policy making, human resource management, organizational structure and transparency and well as facilitate easier access to administrative services provided by the government. EU financial support of the public administration reform based on the variable and independent tranches in the amount of 90 million EUR is split over four years.

³³⁸ Cabinet of Ministers of Ukraine: Ukraine Reform Conference, <https://www.kmu.gov.ua/ua/diyalnist/reformi/mizhnarodni-konferenciyi-z-pitan-reform-v-ukrayini> (accessed 18.07.2019)

³³⁹ Cabinet of Ministers of Ukraine: On Amendments to the Decrees of the Cabinet of Ministers of Ukraine dated June 24, 2016 No. 474 and December 27, 2017 No. 1013, <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-rozporядzhen-kabinetu-ministriv-ukrayini-vid-24-cheravnja-2016-r-474-i-vid-27-gradnja-2017-r-1013> (accessed 27.10.2018)

Domestic conditions for effective Europeanization are in place,³⁴⁰ though the level of political instability and weak political culture to create a proper political agreement could create the danger of imitating of this reform instead of actual implementation of recommendations suggested by SIGMA.

Domestic conditions for Europeanization	Summary of the conditions present in PAR
Domestic costs of public administration reform adoption and implementation	Financial costs are determined by the government and there is a yearly allocation of funds devoted to support the reform, though the allocation is unstable, and any new political team could cut costs for the implementation of reform and make changes reversible. Apart from the financial burden, there is an unstable political class with no ideology and an insufficiently developed civil society which has little impact on internal government processes.
Support of PAR	There is no clear opposition to PAR, but no strong political support either. Assuming that at the beginning there were 10 out of 18 ministries who piloted the reform, by the end of 2018 only eight remained to implement and restructure innovation, and based on the assessment of the eight pilots the decision to continue or not will be expanded to other central bodies. Politicians are rather ambivalent towards this reform, as it is difficult to communicate.
Compatibility between Ukrainian public administration and SIGMA principles	The ‘misfit’ between Ukrainian public administration and the SIGMA standards of public administration are present, hence, there are many things to change and adapt. As the condition for adaptation is efficient administration, its modernization is highly relevant. Simultaneously, Ukraine took responsibilities to reform its public administration further based on the SIGMA assessment.

Table 9: Domestic conditions for Europeanization, conducted by the author

The costs which Ukraine must bear are outlined in the laws on state budget for the corresponding year. Although, there is a risk that cost allocation in future years for this reform could be dramatically decreased or even abolished. Although, as Ukraine declared its European and Euroatlantic membership aspirations in its Constitution, there is no possibility to abolish or significantly hinder the reform, which is aimed to promote good governance as part of the Association Agreement.

³⁴⁰ See Table 9

6. Conclusion

Ukraine has a long history of attempts to reform public administration, though these were never successful. As a part of the Association Agreement, support of international donors helps in speeding up the reforms necessary for Ukraine. In many cases, EU support plays a crucial role in shaping the country's reform agenda, simultaneously empowering Ukrainian reform-minded staff. Ukraine is the first non-potential EU member country which received direct budget support in lieu of the fulfilment of the public administration reform (PAR)-shaped goals.

The PAR process is being influenced by the presence of numerous domestic and external conditions which are interrelated. The EU plays a substantial role in assisting and further promoting PAR with the provision of political and technical support. However, this support has very limited impact as Ukraine is a sovereign country and has its own agenda outlined in official documents related to the commitments to reform and adapt national legislature to the *acquis*. Neither politicians nor the public administration is capable of providing significant input into the results, but at the same time there is no opposition to reforms nor to Europeanization. The Ukrainian public administration is quite different from EU standards, but there is adaptational pressure in place and a willingness of Ukrainian politicians to follow the SIGMA principles in public administration reform.

Attention to the reform of public administration by donors remains high due to their understanding of the lack of institutional capacity to implement the scope of EU rules committed for implementation in other areas. At the same time, such assistance is provided only to those public bodies, which volunteered to join the reform as pioneers and introduced Reform Support Posts, who are already civil servants who went through a challenging competition and receive stable and competitive salaries. In the case of EU support to the reform process, technical assistance is provided at the highest level of governance: to the President of Ukraine through the National Council for Reforms and to the Cabinet of Ministers of Ukraine.

Although the reform is not very smooth and faces many challenges, which was reflected in the Report on Implementation of the Strategy of Public Administration Reform through 2021 in Ukraine in 2016-2017, where:

*“More than a half of the indicators (53% - 29 indicators) were achieved, however, one third of the indicators (31% - 17 indicators) was either not achieved or information is absent”.*³⁴¹

³⁴¹ Government of Ukraine: Report on Implementation of the 2016-2020 Strategy of Public Administration Reform in Ukraine in 2016-2017

Assuming, that the activities for 2016 were implemented only at 40%, the success of 2017 was more feasible. However, SIGMA does not see a problem in implementation capacity, but rather in *too ambitious goals and too short deadlines* for their accomplishment.³⁴² Such a low implementation rate shows that goals are too ambitious and the present capacity to reform has not been assessed by Ukrainian officials properly.

To sum up, the conditions to meet Europeanization from the side of Ukraine are the following:

- 1) Domestic costs of public administration reform are considered, and these are both political and financial. The political leadership of the reform is in place, however it remained weak enough to implement only 53% of the planned activities for 2016-2017. Financially, budget allocation is in place, however, it is separate from the budget for other civil servants. That means that in case of zero allocation to the special fund, new staff positions within the ministries will not receive their salaries, which puts the whole reform of the ministries under threat.
- 2) There is political leadership of PAR and representation of this reform as one of the important ones with the acknowledgment of the importance of PAR from EU officials. Civil society support is limited as this reform is more managerial and technical, and civil society has almost no impact on it despite their presence in the PAR Council.
- 3) Ukraine undertook a huge assessment of its public administration in 2018 and showed its willingness to follow recommendations provided by SIGMA experts. The assessment showed a certain misfit between the Ukrainian state of play and the SIGMA principles. This turned into an overall PARS update in 2018.

Ukraine receives significant *political, technical and financial support* for the implementation of public administration reform. However, better coordination between the timing of financial and technical support must be ensured. The problem of EU assistance to PAR was that the financial support started in 2017, while the technical support component began only in 2018, and activities for public administration reform have been planned since 2016, but due to the absence of financing were implemented much later than planned. A lack of capacity of several main ministries, particularly in the human resources management system put at risk the implementation of reforms, such as the creation of directorates and the hiring of new reform support staff. In 2018, the project of technical

https://www.kmu.gov.ua/storage/app/media/reform%20office/PAR%20annual%20report_Eng.pdf (accessed 27.10.2018)

³⁴² OECD/SIGMA (2018): Baseline Measurement Report: The Principles of Public Administration, Ukraine June 2018 <https://www.kmu.gov.ua/storage/app/media/17-presentation-2018/06.2018/ukraine-baseline-measurement-report-2018-1.pdf> (accessed 13.09.2018)

support to the PAR, which is being implemented at the expense of EU funds, faced a significant challenge with the continuation of support of the PAR, assuming the Accounting Chamber already reviewed the efficiency of the money spent on the reform and its effectiveness.³⁴³

In conclusion, the EU uses a policy of conditionality as well as instruments to promote its external policy, however it has no real impact on domestic decision-makers as Ukraine is a sovereign country and has no clear incentives from the EU which could justify the domestic cost of reform implementation in line with the provided criteria. At the same time, Ukraine has its own interest in modernizing the public service sector to make it more attractive for professionals who would be more capable to deal with *acquis* and be aware of EU legal practices as well as Ukrainian legal practices in certain spheres.

To summarize, the following EU conditions are in place to influence Europeanization of PAR:

- 1) The EU uses various instruments within the European Neighborhood Policy which are related to *social learning* and *lesson-drawing* models of knowledge transfer: the European Neighbourhood and Partnership Instrument (ENPI) and Cross Border Cooperation (CBC), and within these initiatives there is technical assistance, budget support, macro financial support and grants.
- 2) The specific instruments the EU uses to support PAR are: the presence of SIGMA Principles of Public Administration and their overall credibility and usage among OECD members and as an assessment tool for EU potential members; technical support, which is embedded in EU4PAR projects, fully sponsored by the EU and aimed to specifically support PAR; budget support, which is a pure conditionality under which the budget of Ukraine receives a certain amount of money on a yearly basis for the successful achievement of PAR-related goals; and macro financial assistance which is partially attached to PAR, as it was in case of the adoption by Verkhovna Rada of the Law on Civil Service and following financial support.

³⁴³ Pryamyi, 23 October 2018: Cleaners instead of reformers: Accounting Chamber carried an audit of the public administration reform in Ukraine, <https://prm.ua/pribiralniki-zamist-reformatoriv-rahunkova-palata-provela-audit-reformi-derzhupravlinnya-u-kabmini/> (accessed 27.10.2018)

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Appendix

The list of interviewees:

- 1) Head of the Expert Group of the Effectiveness of the System of Central Executive Bodies, the Directorate of Public Administration, Secretariat of the Cabinet of ministers of Ukraine;
- 2) Director General of the Directorate of Public Administration, Secretariat of the Cabinet of ministers of Ukraine;
- 3) Team Leader of the EU funded project “Support to Comprehensive Reform of Public Administration in Ukraine”;
- 4) International expert of the EU funded project: “Support to Comprehensive Reform of Public Administration in Ukraine”;
- 5) Legal advisor from and NGO BRDO (Better Regulation Delivery Office), who assisted Secretariat of the Cabinet of ministers of Ukraine with the improvement of the Rules of Procedure of the Cabinet of Ministers;
- 6) International expert of the EU funded project “Support to the implementation of the EU-Ukraine Association Agreement”;
- 7) Senior Project Management on public administration reform from the Reforms Delivery Office (RDO), which is an advisory body to the Cabinet of Ministers of Ukraine and Prime Minister;
- 8) International expert of the EU funded project “Support to the implementation of the EU-Ukraine Association Agreement”.

Interviews were taken in September – October 2018. Two separate lists of questions were used, one was designed for civil servants, the other one for external experts (not public servants). The questions were narrative, and interviews were conducted in the form of guided conversation.