

## The European Union's ENPI Programme for Ukraine

Support for the implementation of the EU-Ukraine Association Agreement / A4U Project

Project Identification No.:  
EuropeAid/137074/DH/SER/UA  
Contract N: 2015/370-128

### **A4U Comments-Briefs N7**

### **On Further Steps Needed for the Successful Implementation of the Reform of the Ministries / the Operation of the new Directorate Generals**

Prepared by T. Draskovics, STE of the A4U EU Project. It reflects views of the STE only and not the official position of the Project, let alone the EUD.

December 2017



This project is funded by  
the European Union



A project implemented by Consortium led by  
GFA Consulting Group GmbH



Funded by  
the European Union



Implemented by a Consortium led by  
GFA Consulting Group

**Draft for discussion 24.11.2017**

## **Further steps needed**

for the successful implementation of the reform of the ministries/the operation of the new  
Directorate Generals

### **The context**

The CMU has started a very ambitious reform – within the framework of the Public Administration Reform (PAR) Strategy – for improving the policy development/policy analysis capabilities of the ministries. The key element is the establishment of Directorate Generals (DGs) for some horizontal tasks and some policy areas in the pilot ministries (and in two agencies). This reform is linked to the recruitment of staff for the DGs through a competitive process.

The establishment of the DGs is part of a more fundamental reform: the changing the functions of ministries by eliminating or transferring non-policy making functions.

The analysis and conclusions expressed in this paper are based on the information available for the A4U project and unofficial (or even Google made) translation of the Ukrainian documents, thus might have limited relevance due to the insufficient information and quality of the translation

### **The purpose of this paper**

This paper is to outline the further steps/actions needed for the proper functioning of the DGs based on the analysis of the preconditions needed and taking into account the actions have been made so far and being in the preparatory phase at the moment.

Due to its nature, this paper intends to attract the attention of the authorities to the missing elements and does not provide a full analysis let alone a plan.

### **The approach**

The DGs can operate successfully only if the whole regulatory-procedural, management-organisational and HR environment is changed in line with the new policy-making/analysis concept and the different other efforts of the PAR Strategy implementation are designed for in a coordinated – both regarding content and timing - way.

The critical elements of the DGs' operational environment

- a. Regulatory - procedural
  - The law on civil service
  - The law on Cabinet of Ministers and Central Public Executive Authorities
  - The budget code
  - The Rules of Procedures of the CMU (RoP)
  - The internal rules of the ministries

- The strategic planning system of the CMU
- b. Management – organisational
- External – the formal and informal management of ministries by the Prime Minister and the Center of Government
  - Internal – the formal and informal management of the DGs within the ministries
  - Cooperation among ministries and within the ministry
- c. Human Resource Management issues

### **Our understanding**

Our understanding is that the focus so far has been on defining the basic role of the DGs (CMU resolution No. 644) and recruiting the directors and experts. These actions represent a major step forward and demonstrate the commitment of the CMU. But they also mean that most of the above-listed elements are yet to be aligned, although some of them are being prepared in this period.

For creating a (close to) optimal environment for the DGs clarity and consistency is needed. It should be transparent for both the DGs and their partners what is the objective of the new system, what are the expectations against them and it can be achieved only if the messages relayed by the regulations and management actions are consistent and consistently enforced. The clarity and consistency also require a rather high level of standardisation across the Government. The differences by ministry and or DG should be somewhat limited.

The circumstances do not allow to wait with the commencement of the reform until all necessary elements of the environment are in place. However, there is a limited window of opportunity to make it happen without endangering the success. That is why plans are to be developed and deadlines set for filling the gaps.

## Key issues to tackle with for the successful operation of the DGs

	Issue	Action to be taken	Comment
1	<b>Policy development process/ system</b>	<p>The mission of the DGs is to develop high-quality policies in their designated policy areas. They will be able to fulfil their mission only if there is a consistent system of policy development (when and how policies should be developed, what kind of analysis to be made, in what form it is presented etc.) At the moment such a system does not exist. Although there have been continuous efforts to change the RoP to establish the framework, that is still in the making.</p> <p>The system should be designed in a way that reflects the different nature of the issues and the resources for policy development available. The principle of proportionality and gradual implementation are to be applied. The suggested general rule is that before legal acts are drafted the very basics of a policy (what is to be achieved, which instruments to be used) should be developed and agreed upon, within the relevant ministry or at the CMU level. For more complicated issues, along with the building up of the capacities of the DGs, more sophisticated policies should be required, by using more advanced instruments like policy impact assessment.</p> <p>In addition to the regulatory framework for policy development, support will be needed for the DGs to meet the new standards. The impact assessment will be the most critical element since that requires the most and highly trained resources, probably impossible to build in every DG.</p>	By the time the DGs start to operate.
2	<b>Enforcement of the policy development process</b>	<p>With or without the changes to the RoP, the functioning of the policy development will depend on the “demand” side: will high-quality policies be required before decisions are made, legal acts are adopted or not. This should be underpinned by two pillars:</p> <ul style="list-style-type: none"> <li>• a key message from the Prime Minister making it clear for the ministers that no decision will be made on issues that are earmarked for proper policy-making;</li> <li>• Consistent, legally and politically mandated, the practice of the SMCU for checking the submitted proposals and refusing those that are not up to the requirement.</li> </ul>	By the time the DGs start to operate.

		The same approach will be needed within each pilot ministry: clear requirements set both by the minister and the state secretary and strict enforcement by the Planning/Budgeting DG.	
3	<b>Strategic Planning System</b>	The outputs of the DGs should be shaped by the overall direction of the CMU and the ministry developed and expressed in strategic documents. Certain elements of such system are in place already, however a comprehensive description, let alone a regulation, of the strategic planning system is still missing. If the links between the different levels/elements of the planning system are not clearly set, the risk is that the policies developed will not focus on the most important issues or by content deviate from the required direction.	A clear vision (concept) adopted on the CMU level of strategic planning would be needed. The different pieces of legislation (RoP, Budget Code and others) should be developed fully in line with that vision.
4	<b>The budget planning</b>	Both strategic planning and policy-making should be strongly linked to the medium term and annual budget process, otherwise even the “best” policy was useless. At the moment not all the necessary links are in place and the proposed changes to the Budget Code (see separate comments), although move in the right direction will not cover everything that needed.  Strategic and Budget planning should be an integrated process and the DGs’ role in that process clearly defined. (Most of the) Budget programs need to be assigned to a specific DG for making clear the financial limits of their policy-making effort as well as their responsibilities.	The vision should also allocate the responsibilities among the ministries. Ideally with a crucial role of the SMCU.
5	<b>Management structure of the ministries</b>	The State Secretaries (StS) have been in their positions since March, but there is no regulation defining their role and responsibilities relevant to all ministries, yet. There is still unclarity – at least in some ministries – who is doing what, who reports to whom on the senior level (minister-deputy minister – StS) and there are significant differences between the arrangements developed in different ministries. This unclarity probably makes problems under the current circumstances but would seriously endanger the operation of the new DGs. It should be clear from the very first day of operation of the DGs: who can instruct them to do/not to do something, who approves their outputs. The arrangement should be the same for all DGs in a ministry and all pilot ministries.	By the time the DGs start to operate.  The ideal solution would be a piece of legislation establishing a definite and firm management structure, including the division of responsibilities between the political and non-political elements. If that is not possible at the

		<p>The decree on the establishment of the DGs claims that the Directors report to the StS but its also claims that the minister coordinates the DGs' activities. That needs further clarification as well as the role of the deputy ministers.</p> <p>The whole logic of the restructuring of the ministries and the PAR would suggest that the political level orientates the DGs' operation through the StS and the StS only.</p>	<p>moment, at least some formal or informal guidance from the Prime Minister was needed.</p>
6	<b>Clarity and consistency of the management expectations from the ministries' top management</b>	<p>Similar to the need for firm expectations expressed by the RoP and the Prime Minister regarding policy making, the ministers and the StS should consistently and publicly (known by the whole ministry) express expectations towards the DGs. Those expectations should be fully aligned with the RoP and the PM's messages.</p>	<p>By the time the DGs start to operate.</p>
7	<b>Clarity on the future role of the ministries.</b>	<p>The starting point of the ministries' restructuring was to create better conditions for policy making while either transferring or cancelling other functions of the ministries. That requires a well-developed concept of the next step of the reform: to set the criteria and process for the "cleansing" of non-policy making related functions. Parallel with the development of such concept legislation, institution and capacity building is needed for implementing the concept. The most critical issue is probably the execution of the ownership rights of state-owned enterprises (asset management), that is a huge and highly sensitive project by itself.</p>	
8	<b>Clear process of taking over functions and staff from the "old" departments.</b>	<p>To ensure the smooth implementation of the reform the whole staff of all pilot ministry should know how the transition will take place: criteria, decision-making process, timeframe and the future of those are not taken over (based on the concept mentioned above).</p>	<p>At least the deadline for publishing this information should be set when the DGs start their "building up" process.</p>
9	<b>The status of the DGs and their staff in the Civil Service</b>	<p>Ukraine adopted and has been implementing a very sophisticated and rightly praised Law on Civil Service just recently. It is considered as a key contribution to establishing the rule of law and creating stability in the Civil Service. In contrast some elements of the current reform of the ministries is being introduced somewhat "outside" the Civil Service Law. That situation is not</p>	

		sustainable from a purely legal point of view but also creates uncertainty within the ranks of the newly recruited staff.	
10	<b>Internal processes of strategic planning in the ministries</b>	<p>The ministries are obliged to develop a rolling “Strategic Plan” for three years in every year. The importance of such plans will increase in the future. The new DGs for “Strategic Planning/EI” are mandated to develop these plans.</p> <p>The Strategic Plans should fit into the (not yet fully designed) strategic planning process that requires standardised structures and processes in every ministry with standardised links to with other DGs/Departments of the ministry, to the Ministry of Finance and also to the SMCU.</p>	
11	<b>Internal processes of EU integration tasks in the ministries</b>	The EU integration process, the implementation of the AA/DCTFA, in particular, are centrally coordinated processes across. The DGs for “Strategic Planning/EI” are supposed to play a key role in the coordination within the ministry and operating as the interface for GOEAI. The smooth operation requires again standardised processes across the government within the ministries and between ministries and GOEAI.	

Prepared by T. Draskovics, STE, A4U