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Introducing the New Structures in Ministries – Initial Comments (from the Perspective of Weaknesses of the AA/DFCTA Implementation - Coordination)

Prepared by Rafal Hykawy, 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.

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Introducing the New Structures in Ministries – Initial Comments (from the Perspective of Weaknesses of the AA/DFCTA Implementation - Coordination)

Rafal Hykawy, A4U, STE

General remarks

- The reform of the structure of ministries is an important step in the public administration reform that in a mid-term perspective will boost the efficacy of the Ukrainian administration, strengthen the motivation of civil servants (not only those responsible for the introduction and management of the new structures/entities) and limit the possible waste of public funds. The reform is also expected to improve the quality and pace of the AA/DFCTA-implementation and the strategic management of European policy related issues.
- To attain those ambitious but achievable goals it is important to analyze – before the introduction of the new structures – all the relevant systemic aspects, problems (i.e. in the area of inter- and intra-ministerial coordination of EI-affairs), possible institutional/organizational options and to put the necessary emphasis on the way of explaining and introducing the structural changes. This second aspect is especially essential to avoid the reform turning into just one of other ambitious but unachievable ventures.
- It seems (taking into account opinions also expressed by Ukrainian civil servants) that the way of introducing a reform that will change today's institutional reality in every ministry might be organized in a more optimal and structured way. The main ideas were presented to the ministries and main tasks defined (i.e. functional review in line ministries) while a finalized conception/strategy including all the key elements is missing. Work on some conceptual documents is still ongoing (i.e. description of the tasks of the new structural entities that will be introduced in the ministries – General Directorates (DGs) and Strategy and Coordination Directorates General (SCDGs) – and their reciprocal, systemic relations) or missing (i.e. definition/description of the legal and pragmatic nature of inter-relations of the new ministerial management triangles including: minister/deputy ministers, secretaries of state, general directors or

- concepts who and how is supposed to assume in the new structures the tasks managed today by deputy ministers for European integration (DPEI).
- It is also not obvious how current “old departments” will be transformed/incorporated into the new DGs and how (and on which basis – functional analysis made by secretaries of state in each of the ministries?) their employees/civil servants will be transferred to new entities. One must be aware that this two issues are the most important aspects of the reform for the majority of current staff. The same applies to the way how the introduction of SCDG’s will/should enhance the coordination capacity and efficacy of the Ukrainian administration regarding the AA/DFCTA-implementation. This is especially important from the perspective of the A4U project, both from the point of view of the implementation of the present conclusions/findings made especially in Component 3 and also taking into account future activities that will have to be realized in a completely different institutional reality.
- The way of introducing the reform that will decisively reshape and remodel the functioning of the UA administration is not only vital for its final, expected success. It is also crucial to maintain during the “introductory period” (that is supposed to last at least some weeks) the current pace of governmental works/activities (as emphasized recently by the Prime Minister the progress in AA/DFCTA related legal approximation remains already below the expectations of the Government) that depends on the motivation of civil servants. It is not unusual that in big governmental/administrative institutions structural reforms are encountered with a “sit and see” attitude and/or with concentration on search of work by a large group of staff. This is why it is important not to underestimate the coherence and communication aspects of the reformatory activities.
- One of the impressions based also on opinions expressed by representatives of line ministries, is that on the level of ministries (too) many representatives are participating in the “initial phase” with no clear mandate (dispositions from the management of the ministries have not always been transmitted) and understand of the changes that have to be introduced. This is reflected in the questions asked during the introductory meeting in the CMU Club i.e. about the conformity of the structural changes with the Ukrainian Constitution. For this reason the first phase of presentation/discussion should have been organized with the participation of the real decision makers from the ministries (ministers, deputy ministers, secretaries of state).
- The stronger participation of decision makers from the ministries is also required taking into account that one of the next goals of the reform is to “replace” a number of the deputy ministers with director generals (even if some of them – as expected by the SCMU – will decide to participate in future competitions and become director generals/civil servants). Parallely, secretaries of state are also expected to take over

(in some of the ministries this has already taken place not always with mutual consent and in a successful manner) some of today's obligations of the deputy ministers. Without their endorsement, a reform that is in a certain way oriented "against their interests" may encounter several drawbacks.

- The future possible limitation of the number of deputy ministers will have its political, "internal" and "external" consequences that have to be taken into account. A limited political management of the ministries – especially in case of coalition governments where crucial and strategic decisions have to be taken in political consent – can lead to a situation where important spheres of ministerial portfolios will be difficult to manage and/or will become to a greater extent subjects of political bargains. This will certainly, rather negatively, influence the AA/DFCTA implementation process. For the above mentioned issues it is crucial – before assigning precise tasks to the DGs – to define the competencies and the formal relationships of the ministerial management, especially taking into account the envisaged, not only supporting but even pivotal, role of the state secretaries.
- On the other hand, it is to expect that recently appointed secretaries of state (at least some of them) have not yet gained the necessary authority and/or practical experience in managing complex dossiers/reforms that are needed to become leaders of the introduction of key reforms in their respective ministries. In some of the ministries the necessary *modus operandi* defining working relations between the highest civil servant representative and the political management has not yet been established. In some of the ministries the appointment of the state secretary has led to internal perturbations (i.e. some state secretaries "felt responsible" for the management of internationally/European founded projects considering them from the strict financial perspective of ministerial budget management and not their content). It has to be underlined that this is not a specific Ukrainian phenomenon – in several European countries the introduction of similar civil servant posts has often produced unexpected side effects that were not always successfully and/or quickly eliminated. However, it has to be taken into account, that the position of the Ukrainian secretaries of state will be stronger integrated into i.e. the direct management of sectoral policies in comparison to their European counterparts that are usually responsible for a portfolio limited to a number of supporting, administrative, HR, public procurement and budgetary tasks ("Secretariat"). For this reason it is very important to precisely determine not only the reciprocal competencies of the state secretaries, deputy ministers, ministers in the new structural framework but also their competencies regarding the supervision of the future DGs (in one of the latest available papers describing DGs and SCDGs tasks there are for both kinds of directorate general only two tasks referring to the state secretaries: "*advising the state secretary on prioritization of objectives, tasks and human and financial resources in a defined sector (...)*" and "*support the state secretary in ensuring that Ministry's work and*

corresponding planning (...) are internally coherent and focused on achieving reform priorities (...)). The issue of AA/DFCTA implementation has also to be considered in this exercise.

- The idea of introducing into the just created civil service a group of better paid “super-functionaries” on a (so far) unclear legal basis, clear merits, etc. (in comparison to “regular” civil servants having just successfully passed competitions for posts that in few weeks will probably cease to exist) that are expected to warrant the success of the reform can be counterproductive. This step may not only undermine the perception of the civil service (law) but also contribute to the creation of additional divisions into “us” and “them” among the ministerial staff, in addition to the division that already occurred as a result of the succeeding appointments of civil servants among other employees. In addition to all these problems the sustainability of the funding of the higher salaries is not secured.

Reform of the structure of ministries from the perspective of today’s weaknesses of the inter- and intra-ministerial coordination of AA/DCFTA implementation

- The description of tasks of the DGs and SCDGs does not provide crucial and expected answers how and by the use of which means/instruments/procedures – the new ministerial structures are expected to improve the institutional capacity necessary for better, smooth and efficient AA/DFCTA implementation.
- From the point of view of the A4U Project, the introduction of a limited number of director general posts supervising the “special” SCDG responsible in each ministry for the management of strategic planning, EU policy and AA-implementation, has to take into account today’s (institutional, legal, practical) problems encountered by DPEIs in their intra-ministerial AA/DFCTA implementation coordination and also the weaknesses of the horizontal coordination provided by the VPM/Government Committee/GOEEI triangle. Problems revealed in this area, their consequences and proposals how to overcome them were presented in a policy paper prepared by A4U.
- What is more, the lack of a clear concept (or information) raises questions about the future leadership of the intra- and inter-ministerial coordination of AA/DFCTA implementation in the ministries. Today this leadership is/should be assured by deputy ministers responsible for EI (DPEI). As described in the A4U concept paper DPEIs often encounter problems in the coordination of not directly subordinated departments “protecting their autonomy” and/or not understanding the necessity of intra-ministerial coordination and coherent outside representation in European integration matters. It is not clear how this problem will be solved in the new ministerial structures – whether for example these responsibilities will be shifted to the director generals supervising the “special” Strategy and Coordination Directorates General (SCDG) in line ministries

given the special role there are expected to play as coordination responsible units (?). It has to be underlined that such systemic decisions – if introduced – will determine and modify the functioning and efficacy of the entire coordination system, cooperation with GOEAAI and on the level of the relevant Government Committee. The available description of typical DGs and SCDGs tasks does not explain this issue. What's more – the proposed, very general provisions refer only to general tasks but do not describe how to pursue them.

- The creation of SCDGs is expected to remedy today's lack of strategic dimension of the existing coordination system. There is a reciprocal expectation of line ministries and GOEEI that the strategic overview and planning – that in almost every expressed interview is missing – should be assured by line ministries (position of GOEEI and Office of the VPM) or GOEEI (position of line ministries). As expected by the SCMU and the VPM Office this problem should be solved by the connection of analytical competencies of the ministries and some of the AA/DFCTA implementation related tasks into single units – SCDGs. This top-down approach might not be optimal without precise discernment of structures and analytical needs of ministries which are not limited to European affairs. Such approach – if not reflecting the complexity of the ministry – may lead to the formation of several strategic and analytical centers within the ministries (usually cabinets of ministers are also entrusted with analytical/strategic tasks) and, consequently, to an even greater complexity and blur of the decision-making process. The latest version of the DG's/SCDG's papers contains only very general provisions in this respect.
- Proposed regulations have, first of all, a prevailing descriptive character defining tasks with no reference to precisely described coordination instruments/procedures. It is important not to follow the example of the regulation on GOEEI that attributes to the Office many horizontal, strategic and analytical tasks that cannot be performed without precisely defined tools. The extensive list of obligations attributed to GOEAAI is not reflected in any single procedural framework that at least would provide the Office with instruments allowing the fulfillment of its tasks. As a result, some of the AA/EI related tasks – especially those having inter-ministerial and/or strategic character – are today performed to a limited extent and quality.
- The last year adopted changes transforming GOEI into GOEEIA constituted a unique chance for the necessary remodelling of the coordination system. According to several line ministries, this opportunity was missed. These opinions do not only reflect legal and institutional considerations and/or assessments on the quality of today's coordination. They also stem from the lack of information about the reasons for the creation of GOEAAI and the way the renamed Office was supposed to become operational. It is now much more difficult to introduce new working procedures months

after implementing the new regulation. This experience should be avoided while designing the new ministerial structures, especially in the AA/DFCTA area.

- The proposed organizational changes do not solve essential problems related to the AA/DFCTA implementation presented in the A4U *“Weaknesses”* concept paper. On the horizontal level the GOEEI/GC/VPM triangle that should – according to the wording of the existing regulations and the expectations of the majority of stakeholders – manage all the AA/EI relevant coordination processes and activities is in fact limited in its scope of responsibility and covers a limited spectrum of AA/EI related government activities, especially those having inter-ministerial character. An undefined part of the coordination process takes place beside the main coordination track. The existing legal and operational framework for coordination does not provide an efficient system of cooperation that is needed to manage complex EI/AA affairs.
- In addition, there is a lack of interest and/or initiative of several line ministries in reforming and adjusting the existing AA/DFCTA coordination responsible institutions and existing mechanism to the real, desirable and very often expressed by stakeholders needs and expectations. This is an additional argument, why it is so important to include the broader, horizontal institutional perspective into consideration in the current process of remodelling the structures of line ministries. If this is not done processes aiming at improving coordination will ebb.
- The most recommended approach would be a complex revision of the existing and planned regulations covering all the levels of AA/DFCTA implementation and coordination and their transfer into one complex institutional framework eliminating all the current deficits. Several proposals in this respect were made in the A4U *“Weaknesses”* paper.

Rafal Hykawy, STE, A4U