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Governmental Committee on European and Euro-Atlantic integration (GC-EEAI) – guidelines and recommendations from the AA – implementation perspective (draft)

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**Governmental Committee
for European and Euro-Atlantic Integration (GC-EEAI)
– recommendations and guidelines for a more efficient AA-implementation,
strategic planning and realisation of the European policy of the Government**

Introductory observations

The current model of managing Ukrainian European policy through the GC-EEAI (Governmental Committee on European- and Euro-Atlantic Integration), but in fact also via two other inter-ministerial committees (GC on Social Policy and Humanitarian Development, GC on economic, financial and legal policy /.../), is in several aspects not reflecting best practices that might be used from the experiences of European coordination practices.

The existing Ukrainian institutional solutions and procedures concerning GCs (governmental committees) are primarily characterized by the dispersion of management (planning, implementation, monitoring) of the package of European policy issues/areas. It is due to the fact that AA-implementation is discussed and decided on three independent governmental forums, headed by three different vice prime ministers (VPMs), enjoying different status within the government. The 'justification' for this dispersion lies in the fact that AA-implementing draft legal acts are treated together with purely internal legislation and/or the different character of the tasks/issues implemented by MEDT as the coordinator of DCFTA-implementation in comparison to the AA-relevant activities. In reality, both of these contractual obligations remain in an integral correlation. This is in governmental practice expressed i.e. by GOCEEI and MEDT commenting on issues dealt within various GCs from the perspective of implementing 'their' agreements.

Obviously one can also find other arguments justifying the existence of this dispersed coordination model. They might be of substantive nature (emphasizing the different nature and content of both agreements), political (special institutional and political position within the government of the first deputy prime minister responsible for economic affairs), or institutional (specific substantive competences required especially from the Ministry of Economy (MEDT) as coordinator of the economic GC, whose employees have to develop and process specialized and technical regulations defining the framework and terms of cooperation and activities within economic sectors and among economic partners). These issues were taken up in previous A4U position papers.

Regardless of the existing conditions and justifications of the management dispersion of European affairs, it is necessary and recommended to develop in future such institutional framework regulations, in which in one single inter-governmental institution all the threads of the integration process – apart from strictly political activities/priorities of the Ministry of Foreign Affairs, the Government and the

President – will be reunited, planned and monitored. In addition, this body should be able to discuss and assess on substance not only the legal compliance of draft legislation and monitor its implementation, but also to have the capacities (human, procedural) to take position on actions planned and undertaken by individual ministries, and to make regular strategic reviews of the state of relations with the EU and/or internal implementation barriers on issues/areas of special importance to the government. Although such competences are already foreseen at the lower coordination level and defined as tasks of the core coordination body – GOCEEI – the existing institutional ‘decentralization’ of governmental committees is the main, though not the only, barrier to the efficient implementation and management of this key task from the point of view of the government.

Today’s experience and role of the Office in the coordination process pose questions about its ability to deal with strategic analysis and policy planning in the sphere of European affairs. This capacity that is being currently reinforced i.e. by the ongoing recruitment of reformatory staff is crucial for the Office not only in view of the enforcement of competencies in this regard of line ministries through the creation of strategic planning and EI directorates (DG-SPEI) and the management of their coordinative tasks. It is essential for the proper assessment and planning of medium- and long-term planning of the Ukrainian European policy that should be i.e. based on a broad horizontal analysis and the establishment of common priorities going beyond the horizons of sectoral plans of ministries.

Another issue that is essential for the functioning of the GC-EEAI that has to be considered and precisely defined is the division of coordinative tasks between the GOCEEI and the SPEI-DG within the SCMU, which are today both – at least theoretically – entrusted with broadly designed European integration coordination issues encompassing also the strategic planning dimension of related processes. The analysis of regulations defining their tasks do not provide answers about the systemic/reciprocal interconnections and proceedings neither with other line ministries and especially their SPEI-DGs nor between both DGs themselves. Surprisingly, the only SPEI-DG, whose regulation do not contain any literal reference to the Association Agreement is the one expected to be the core strategic planning unit within the SCMU. This issue has to be further clarified.

Few observations and recommendations from the perspective and experience of other European countries

From the perspective of the former Central and Eastern European countries that joined the EU in 2004, integration processes already at the stage of their AAs- implementations, were the main driver and premise for introducing institutional changes, building new competences or modelling decision-making processes in national administrations. Although these changes were often more ‘self-made’ or even ‘self-happening’ than they were introduced in an always coordinated and way. They were forced by the dynamics of the process and the European perspective. In addition, the experience of the European administrations was an important and interesting source of inspiration in this respect, but it could not always be directly translated into national regulations not only due to legal and institutional conditions, but also to differences in the level of development of the public administration: for

example access to office technologies (computers, internet) or instruments/methods of human resources management (i.e. civil service and its principles were introduced only a few years or just before entering the EU). In this respect, the UA is certainly in a better initial situation to introduce well targeted and dedicated changes in the functioning of public administration motivated by deepening integration with EU and its member states.

Coming back to the role and organization of the GC-EEAI, it should be emphasized that in several European countries there is (was) – in terms of legal position, structure, competencies – a clear distinction between intergovernmental bodies competent in the preparation of government meetings and those shaping integration policies. In the latter case, the stage of relations with the EU often determines competences and powers attributed to them. At the pre-accession or early member stage, the direct Prime Ministers (PM) involvement and/or direct supervision of inter-ministerial activities/cooperation in this particular area is much more pronounced in institutional and legal solutions. Over time, this competence passes to the minister of foreign affairs (usually deputy minister for European affairs), leaving the prime minister – already within its general, constitutionally defined powers – direct authority in the area of strategic matters, sensitive or subject to possible disputes between ministers. This particular position of PMs is (was) often reflected in the formal composition and/or procedures of the EI GCs being in practice chaired by the PM's main EI advisors occupying the position of chief of ministerial coordination body – the equivalent of GOCEEI.

The European affairs committees usually precede meetings of the relevant single committees preparing the government's meetings and decisions, where their inputs are treated as agreed. This distinction between the committees is due to various factors distinguishing EI-GCs from those preparing the proper government's deliberations. These includes the special/technical nature of the issues under discussion, the involvement of one dedicated management member – the deputy minister responsible in each ministry for EI (DPEI), mostly tense agenda (unlike in the case of a typical government agenda), requiring greater flexibility of proceedings or the existence of a dedicated body responsible for inter-ministerial coordination, of which the committee's meetings are the key instrument. As mentioned above, the role of EI-GCs evolves along with the changes in the nature of the relationship between the state and the EU, focusing in the pre-accession phase on adapting the legal system of the country to the nature of contractual relations with the EU. But even in this period EC-GCs are forums where strategic issues are discussed, inter-ministerial disputes are resolved and delays in the implementation of accepted commitments regularly explained and monitored.

The decisive influence on the agenda of the meetings remains in the competencies of the ministerial coordination body (ministry/office of European affairs) disposing over best current knowledge on problematic issues in relations with the EU, between ministries and also own position on such matters going beyond the opinion on the compliance of the proposed solutions with EU law and evaluation of implementation commitments. Of course, this requires not only specialist legal knowledge, knowledge of EU jurisprudence, but also possession of professional officials. This staff, to be operational in exercising coordination activities needs to demonstrate practical knowledge of the government's policy in a given sector and current developments of EU policies in this area.

Specific recommendations and guidelines for improving the functioning of the GC-EEAI

1. A key measure to be recommended and already reflected in a special draft law that is being currently discussed within A4U participation – apart from the often emphasized strengthening of GOCEEI's position within the governmental administration (political and legal) – **is to raise the rank and role of the Office as central and main coordination body in the preparations and monitoring of the GC-EEAI works and outputs.** Several proposals in this respect were made in A4U position papers.
2. This should precede the crucial step consisting in **'individualising' and raising the legal position of the GC-EEAI clearly distinguishing it from other GCs and granting it specific competences concentrating all European policy issues in one priority governmental committee.** Both measures can be implemented either in the form of a separate law (although this would require the accomplishment of the current institutional reform of the line ministries and introduction of DGs in all the institutions assuring the existence of equivalent structures/units and levels of management in the governmental administration) or – in a minimalistic approach – taken into account and reflected in the new version of the Rules of procedure (RoP). Several proposals for both scenarios were developed by the A4U Project in its papers.
3. **It is worth considering to adopt a legal regulation on the GC-EEAI, which would allow for special situations the committee to be held on the level of ministers, with the possibility of participation of the PM and the deputies.** In addition to the expressing of governments determination to AA-implementation, this formula necessarily engages and motivates institutional actors showing arrears or doubts in the implementation of specific provisions and activities. **At the same time, the postulate of direct (formal) subordination of the GC-EEAI to the PM or at least of a closer institutional (legal) connection with the VPM chairing its works remains valid.**
4. **The creation of one single European Affairs responsible GC would be also important from the point of view of European coordination and tasks of the newly introduced SPEI-DGs limiting the number of institutions/processes dealing with AA-implementation to be monitored.** However, today the specificity of the SCMU SPEI-DG lies in the fact that it is so far the only coordinative ministerial DG to include into its task the preparation of materials – 'in matters that belong to its competence' – for consideration of the government committees meetings. This is also an issue where competencies of both coordinative DGs placed within the Secretariat have to be clarified and made transparent for line ministries involved in the AA-implementation process.
5. **It is worth considering to introduce regular (in the beginning at least quarterly) meetings of SPEI DGs Directors devoted to strategic issues**

preceding the deliberations in the Committee(s) and/or even to allow the Directors General to participate at the meetings. In consequence this would strengthen their position as intra-ministerial coordinators, provide them with regular and updated information on the current state of play of UA-EU relations, eliminate at least some of the information deficits resulting from the fact that ministerial DPEIs not always transmit the information on the outcome of the meetings. **This step would also be helpful in transforming the GC-EEAI into a real core strategic institution enlarging its scope of responsibilities including the settlement of inter-ministerial disputes that is a core task of its European equivalents.** However, the introduction of this measures also requires a clarification concerning the status of the DGs to be introduced in the remaining ministries.

6. **It is also worth considering the participation of Ukrainian representatives to the EU in the GC-EEAI meetings through videoconferences.** It is a practice known from many committees, which accelerates the exchange of information and brings nearer expected solutions to sectoral problems. Initially, such meetings could take place once a quarter.
7. Before introducing any of the above described structural changes, it is recommended to start with matters of lesser importance but crucial for raising the effectiveness of the GC. **One of the priorities is to simplify the system of preparation of the GC-EEAI and monitoring its provisions, ceding more activities in this respect (both substantive and technical) to the GOCEEI.** The current 'multi-stage-level' preparation formula, which is accompanied by many unnecessary administrative activities, involves participation in convening and organizing one committee meeting of several bodies such as: a) GOCEEI, b) OVPM, c) sectoral department in the SCMU, d) department responsible for the organization of meetings of all GCs and e) informal State Secretaries (StS) meeting with participation of SCMU directors during which the agenda of the GC is established. It has to be noted that against to the initial assumptions of the institutional reform the involvement of the StS in the substantive work of the ministry varies depending on the ministry. **The agenda determined in this way is most probably more a resultant of the interests of individual ministries than the expression of analytical reflection made by the coordination body.** According to several DG-SPEI Director Generals, the involvement in the coordination of European affairs is currently not one of their main priorities.

With regard to substantive issues, a key opinion on a draft legal act to be discussed by the GC-EEAI is prepared by the substantive department in the SCMU. The role of GOCEEI boils down mainly to the assessment of its compliance with EU law/commitments of the Association Agreement. In case of discrepancies, quite a complicated procedure has to be engaged by the VPM calling on a given ministry to make the necessary modifications. The complexity of the process that follows is primarily due to the necessity to re-pass almost all phases of the proceedings, which are accompanied by a sequence of actions and formal activities (signatures, minutes, additional letters reflecting minutes of the meeting, etc) that could certainly be reduced to a necessary minimum. Meanwhile, the revision of a controversial draft legal act could be the subject of working arrangement

between GOCEEI and a given ministry, which would require the Office to be given a key role in the reconciliation process. As consequence it would be possible to imagine a simplified procedure where: a) GOCEEI only in case of serious doubts requests the position of the sectoral SCMU department(s), that should soon be absorbed by new DGs, b) the additional 'verification' would be carried out by the separate GC responsible for the preparation of CM meetings. In this option, the key institutional change conditioning the effectiveness of such a procedure would require the 'natural' subordination of the GOCEEI directly to the VPM instead of the SCMU management.

The introduction of such fundamental changes, although improving the coordination of European affairs management, is certainly not possible in the short term but should be considered in the framework of the new institutional setup and introduction of the new qualitatively approach to policy and strategic planning.

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