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# **European Integration: New Context, New Institutions**

*kyiv 2009*

This document was prepared within the project "Preparation of Ukraine for the Implementation of EU – Ukraine Association Agreement: Analytical and Methodological Support" that is being implemented by the International Centre for Policy Studies (ICPS) with the financial support from the Swedish International Development Agency (SIDA).

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ICPS expresses its gratitude to the representatives of the government and international donor community for valuable advice.

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# Contents

## **Part I. A Functional Review: the Coordination Bureau for European and Euroatlantic Integration**

<b>Introduction .....</b>	<b>7</b>
<b>Political objectives and expectations.....</b>	<b>9</b>
<b>Evaluating the current situation .....</b>	<b>11</b>
Criteria for evaluation .....	11
Description of the current situation .....	11
The subordination and status of the Bureau.....	11
The purpose of the Coordination Bureau.....	11
The functions of the Coordination Bureau .....	12
The organization of the Coordination Bureau .....	13
Evaluation of the current situation.....	15
<b>Options for closing the gap .....</b>	<b>17</b>
<b>Conclusions and recommendations .....</b>	<b>20</b>

## **Part II. Managing Foreign Aid in Ukraine**

<b>Why foreign aid should be discussed .....</b>	<b>25</b>
<b>Ukraine's current aid coordination system .....</b>	<b>28</b>
Political backing .....	28
Clear strategic priorities for national development .....	29
A system for coordinating foreign aid.....	29
Coordinating aid from IFIs .....	29
Coordinating international technical assistance from individual donor countries .....	29
Coordinating aid from the EU-27.....	32
Coordinating individual EU instruments.....	34
Conclusions.....	34

<b>A new aid context: Opportunities for Ukraine.....</b>	<b>36</b>
Donors: More coordinated and effective aid.....	36
Budget support: Operationalizing the concept.....	36
Specificities of budget support attraction.....	37
Advantages of budget support .....	38
<b>A new aid context: A new system for aid coordination.....</b>	<b>39</b>
Strategic Level 1 .....	42
Strategic Level 2 and Operational Level 1 .....	43
Operational Level 2.....	44
Operational Level 3.....	44
<b>Possible mechanisms for aid coordination.....</b>	<b>46</b>
<b>Conclusions and recommendations .....</b>	<b>52</b>
<b>Addendum 1: Detailed Examples.....</b>	<b>54</b>
Example 1: The Office of the Prime Minister of Ukraine .....	54
Example 2: National Agency of Ukraine for Development and European Integration (NAUDEI) .....	55
Example 3: The State Department for the Adaptation of Legislation.....	57
Example 4: The State Financial Services Markets Regulatory Commission.....	59

*Part I*

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**A FUNCTIONAL REVIEW:  
THE COORDINATION BUREAU FOR  
EUROPEAN AND EUROATLANTIC  
INTEGRATION**



# Introduction

In terms of the intensiveness of bilateral contact and negotiations with the European Union, 2008 has been the most successful year for Ukraine's European integration. By the beginning of 2008, talks were launched over a deep Free Trade Area with the EU, considerable progress had been made regarding other parts of an Association Agreement with the EU, negotiations on Ukraine's joining the Energy Community Treaty were started, and dialog on a visa-free regime with the EU opened.

The future Agreement and other integrational plans will **present Ukraine with new challenges and requirements**, such as large-scale adaptation of domestic legislation to EU *acquis* in more than 20 spheres and the enforcement of this legislation, as well as institution-building. This will require changes to the government's approach to carrying out its functions at all levels.

Last year saw significant changes to domestic institutions, which provides the foundation for more effective European integration policy in the medium term. The Cabinet of Ministers revived the post of Deputy Prime Minister for European and International Integration, who is now responsible for the political coordination of European integration. A number of institutional mechanisms went into full swing, including the Ukrainian Part of the Ukraine-EU Cooperation Committee and the newly-established Government Committee for European Integration and International Cooperation. In July 2008, a Coordination Bureau for European and Euroatlantic Integration within the Secretariat of Cabinet of Ministers was set up.

The establishment of this Coordination Bureau, which the Deputy Prime Minister sees as handling the administrative coordination of European integration policy, is a major step towards instituting a proper coordination mechanism. But the simple fact of opening this Bureau is no guarantee that this mechanism will work effectively. The effectiveness of the Bureau will depend on a number of factors, such as the presence of the necessary links between political and administrative coordination centers, its status and qualitatively new functions, clearly established and workable horizontal links with all the related executive bodies, the presence of working financial instruments, and, last but not least, properly trained staff.

Moreover, the decision to set up such a Coordination Bureau was not unanimously accepted within Ukraine. Some Ministries expressed concerns about the duplication of functions and saw this as a potential threat to their own powers, funding and personnel. Meanwhile, opinion in the European Commission and EU member states was positive and the appearance of the Bureau was greeted as a serious achievement. Still, for nearly nine months, neither

group saw much in the way of positive change on number of critical points. The Ministries continued to work under the old system and foreign partners did not see a “one-stop-shop” materialize.

For one thing, this state of affairs places the country's image in jeopardy, as well as that of its political leadership. For another, the likelihood that Ukraine will effectively fulfill the commitments it is taking on today vis-a-vis the European Union during negotiations is also under question.

What was the Deputy Prime Minister's idea behind forming the Coordination Bureau? What expectations did the Ministries and EU partners have? What is the current situation and how can the gap between expectations and reality be bridged? This report offers an evaluation of the state of affairs, establishes the nature of the gap between reality and political notions (expectations) and provides recommendations as how to remove this gap, step-by-step.

# Political objectives and expectations

At the beginning of 2008, Ukraine's Deputy Prime Minister for European and International Integration, Hryhoriy Nemyria, launched an initiative to establish a qualitatively new mechanism for coordinating European integration policy in Ukraine. His idea saw life as the result of a compromise that included the formation of the Coordination Bureau for European and Euroatlantic Integration among other steps. The Deputy Prime Minister's concept of the Bureau was to take on "a major gap in the sphere of European integration—**strategic planning, analysis and monitoring.**" The idea was that the Bureau would be subordinated directly to the Deputy Prime Minister for European and International Integration and would:

- carry out the administrative (operational) coordination of policy;
- function as an arbitrator in political disputes;
- and work as a source of information for central executive bodies.

In expanding this view and taking into account the experience of Central and Eastern European countries, the Coordination Bureau should have a clear goal and objectives, along with functions and outputs that are consistent with these:<sup>1</sup>

The **goal** of the Coordination Bureau should be "ensuring coordinated and consistent state policy on European integration in Ukraine." The Bureau's **main objectives** could be: supporting the activity of the policy coordination center (Deputy Prime Minister) and ensuring horizontal interagency coordination in European integration policy in Ukraine.

Based on its goal and objectives, the Bureau should carry out a number of these **functions** and, where possible, produce the relevant **outputs**:

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<sup>1</sup> The basis for establishing the functions of the Bureau was a list of possible functions proposed by a team of British and Ukrainian experts in the European Union Co-ordination Project (EUCOP) project.

Possible functions	Possible outcomes
<p>Planning and initiating the institution of consolidated public policy in European integration</p> <p>Planning and instituting a mechanism for horizontal inter-agency coordination</p>	<p>Strategic plan, program</p> <p>Action Plan</p> <p>Resolution on the adoption of an interagency cooperation mechanism</p>
<p>Supporting the activity of bilateral bodies in context with the Council and Committee on cooperation between Ukraine and the EU</p>	<p>Council and Committee agendas</p> <p>Preliminary decisions at meetings of the Council and Committee</p> <p>Monitoring and evaluating the enactment of decisions by the Council and Committee</p> <p>Reports on monitoring and evaluating the activities of subcommittees and proposals on how to resolve difficult issues based on the results</p>
<p>Analyzing current strategic and operational documents for conformity with the overall European integration strategy. In future, once national and sectoral development programs are consolidated with the European integration program, this function can be applied to new documents</p>	<p>Evaluation of compliance with European integration strategy</p> <p>Ongoing conclusions, similar to the Ministry of Justice's Department for the Adaptation of Legislation</p>
<p>Mediating political positions and disputes</p>	<p>Expert evaluations of controversial issues</p> <p>Draft compromise solutions</p>
<p>Coordinating the negotiation process with the EU regarding economic and sectoral issues</p>	<p>Schedule for negotiations, agreed with MFA</p> <p>Progress reports on the negotiations</p> <p>Ongoing information for the Deputy Prime Minister regarding negotiations and possible problems (possible solutions)</p>
<p>Coordinating policy regarding the drawing and usage of international assistance</p> <p>Monitoring and evaluating the effectiveness of the use of such funds</p>	<p>Strategy for drawing international assistance</p> <p>Program and Execution Plan</p> <p>Reports on monitoring and evaluating effective use of funds</p> <p>Ongoing information for the Deputy Prime Minister regarding negotiations and the carrying out of programs</p>
<p>Coordinating events and interaction regarding European integration with the Verkhovna Rada (VR) of Ukraine</p>	<p>Ongoing information on the results of consultations with VR committees</p>

This list is not exhaustive and can be expanded, depending on the objectives and expectations of the country's political leadership.

# Evaluating the current situation

## Criteria for evaluation

The capacity of the Coordination Bureau to undertake the demands placed upon it (expectations) and its objectives will be analyzed according to these five criteria:

- the subordination and accountability of the Bureau (its ties at the political level);
- the Bureau's status (including the status of the Director of the Bureau and the professional requirements of the person in the post);
- the objectives placed before the Bureau and the functions ascribed to it in its provisions;
- the organizational structure of the Bureau and the functional duties of its internal departments;
- horizontal ties to central executive bodies.

Below is a description of the current status, objectives and functions of the Coordination Bureau and an evaluation, based on the criteria listed above, in relation to political expectations and the objectives presented in the first part of the report.

## Description of the current situation

### *The subordination and status of the Bureau*

The Coordination Bureau is subordinated to the Minister of the Cabinet of Ministers and is an internal department of the Secretariat of the Cabinet of Ministers of Ukraine. There is no direct link at the political level with the Deputy Prime Minister for European and International Integration. This takes place through the Deputy Minister of the Cabinet of Ministers and the Minister of the Cabinet of Ministers.

### *The purpose of the Coordination Bureau*

The main **objective** of the Bureau, according to the Resolution on a Coordination Bureau for European and Euroatlantic Integration, is **support in the form of organization, expert analysis, information and other activities** for the work of the members of the Cabinet of Ministers, the Minister of the Cabinet of Ministers and his deputies, insofar as it relates to the areas of competency of the Bureau, that is, on matters of:

- strategic planning for European and Euroatlantic integration;

- cooperating with the EU and NATO, their statutory organs and other institutions, with EU and NATO member countries, and with any associations of such countries related to issues of European integration;
- implementing the provisions of the Partnership and Cooperation Agreement (PCA) between Ukraine and the EU and its member countries and the EU – Ukraine Action Plan, and monitoring agreements between the EU and Ukraine;
- implementing the provisions of program documents in Euroatlantic integration and monitoring agreements between Ukraine and NATO or member countries on Euroatlantic integration;
- developing a contractual and legal foundation between Ukraine and the EU, including for an Association Agreement that will contain provisions for the establishment of a deeper Free Trade Area;
- preparing for Ukraine's involvement in EU programmes and agencies;
- adapting Ukraine's legislation to EU acquis;
- cooperating with the Council of Europe;
- raising and utilizing assistance in support of European and Euroatlantic integration from the EU, NATO and their member states;
- keeping the public informed on matters pertaining to European and Euroatlantic integration;
- training, retraining and providing professional development for specialists in European and Euroatlantic integration.

### *The functions of the Coordination Bureau*

In keeping with its objectives and **within the limits of its designated competencies**, the Bureau can:

- undertake monitoring and analysis of the effectiveness of the implementation of public policies in European and Euroatlantic integration, including the institution of internal reforms aimed at bringing Ukraine closer to EU standards;
- prepare propositions regarding ways to improve public policy in European and Euroatlantic integration and institutional mechanisms for carrying it out;
- ensure, in the established order, horizontal coordination of the work of executive government bodies on European and Euroatlantic integration;
- handle preparations for meetings of the Ukrainian Part of the Council and Committee on Cooperation between Ukraine and the European Communities (European Union);
- coordinate the preparation of joint meetings of the Council and Committee on Cooperation between Ukraine and the European Communities (European Union);

- organize the preparation for meetings of the Coordinating Council on the adaptation of Ukrainian legislation to European Union legislation;
- provides coordination for the activities of executive government bodies while cooperating with the Community Expert Council under the Ukrainian Part of the Committee on Cooperation between Ukraine and the EU;
- participate in keeping the public informed about the activities of members of the Cabinet of Ministers and its Secretariat with regard to European and Euroatlantic integration;
- participate, in the established order, in carrying out technical assistance (TA) projects with the support of the EU, NATO and/or their member states;
- ensure that draft legislative acts are prepared for review at meetings of the Government Committee for European Integration and International Cooperation and meetings of the Cabinet of Ministers, including those that, in the opinion of the Ministry of Justice, do not comply with the *acquis communautaire*;
- at the request of the Deputy Prime Minister, the Chairman of the Government Committee for European Integration and International Cooperation and within the competencies of the Bureau, draft other matters that are submitted to the Government Committee;
- ensure that instructions and resolutions from members of the Cabinet and Secretariat are carried out;
- carry out other functions in accordance with decisions of the Cabinet of Ministers and Government committees and instructions or resolutions issued by members of the Cabinet of Ministers and Secretariat.

### *The organization of the Coordination Bureau*

The Coordination Bureau consists of three departments: the Department for Monitoring of EU – Ukraine Relations, the Department for European Integration Strategic Planning, and the Department for Euroatlantic Integration<sup>2</sup>. The organization and staff list of the Bureau are approved the Minister of the Cabinet of Ministers.

According to the current list, the Bureau has 60 staff. At the moment the Monitoring Department has 21, the Strategic Planning Department has 20 and the Integration Department has 16.

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<sup>2</sup> The Department for Euroatlantic Integration is not analyzed because Euroatlantic integration is beyond the scope of this paper. Still, the status, competencies and objectives/functions of the entire Bureau in its current state also affect the effectiveness of the Euroatlantic integration coordination process. Most of the conclusions and recommendations presented in this report will be relevant for this area as well.

## Departments by sector and staff

<b>Department for European Integration Strategic Planning (20 staff)</b>	<b>Department for Monitoring of Ukraine–EU Relations (21 staff)</b>
<b>Areas:</b> <ol style="list-style-type: none"><li>1. coordinating steps to set up Free Trade Area;</li><li>2. sector-based cooperation;</li><li>3. international assistance for European integration;</li><li>4. cooperation with Council of Europe;</li><li>5. adapting Ukrainian legislation to EU legislation.</li></ol>	<b>Areas:</b> <ol style="list-style-type: none"><li>1. monitoring agreements between Ukraine and the EU;</li><li>2. supporting the work of bilateral EU–Ukraine bodies;</li><li>3. working with EU institutions and integration work with EU members;</li><li>4. informing the public;</li><li>5. training European integration specialists.</li></ol>

## Evaluation of the current situation

Criterion	Description	Evaluation
Status	Department within the Secretariat of the Cabinet of Ministers of Ukraine (CMU)	<p>As a department under the Secretariat of the Cabinet of Ministers, the Coordination Bureau is effectively an extended Department of the Secretariat. The status of this office has essentially not changed, which deprives the CB of the option of turning into an interagency coordinating body. Other side-effects:</p> <p><i>positive:</i> employees who have worked in the Secretariat and in European integration are a valuable source of institutional memory on the country's path of Eurointegration.</p> <p><i>negative:</i> this same experience will prevent them from understanding the political expectations and qualitatively new objectives and being able to meet these challenges, even if they are written into the CB provisions.</p> <p>Changing status is a decision that has to be adopted at the political level, that is, by the Prime Minister at the request of the Deputy Prime Minister, with the consensus of the Minister of the Cabinet.</p>
Status of Director	Runs the Bureau, is appointed and dismissed by the Cabinet of Ministers at the request of the Minister of the CMU	The status of the Director flows out of the status of the Coordination Bureau itself, so the Director reports to the Minister of the Cabinet of Ministers. At this time, the CB Director has limited influence over those who run central executive bodies (CEBs) and cannot resolve any number of issues prior to their being reviewed at the political level (Deputy Prime Minister). This has the negative consequences for the Bureau itself within the country and for its image among foreign partners.
Subordination	Connected to Deputy Prime Minister through two links: Minister of the CMU and Deputy Minister of the CMU; no direct subordination	The decision-making process is complicated and protracted. Contact with the Deputy Prime Minister is limited because of the need to maintain subordination. This affects both the day-to-day operation of the CB and the sustainability of its work. For instance, there is a risk that all the informal links at the political level will be completely lost whenever the political leadership of the CMU changes. The lack of direct subordination is not the only factor affecting the work of the CB, but it is certainly extremely important—especially when there is a need for decisions to be made swiftly and an enormous number of tasks needs to be accomplished, both those already assigned today by the Deputy Prime Minister and those that will arise in the process of carrying out the Association Agreement.

Criterion	Description	Evaluation
Objectives and functions of CB	(Details at beginning of this chapter )	<p>In the way that the main objectives of the CB have been formulated, the Bureau is obviously seen as having <b>not a leading, but an ancillary</b> function in European integration. The Bureau has no objectives or functions connected to developing policy and coordinating it on an interagency basis. The CB has also not been given the function of initiating the drafting of strategic documents, such as on behalf of the Deputy Prime Minister. Moreover, its functions are not tied to specific activities or products that might be prepared by the CB.</p> <p>In practice, “organization, expert analysis, information and other activities” refers to organizing meetings such as the Ukrainian side of the Committee and collecting materials from Ministries to draft policy decisions.</p> <p><b>This means that, in the current interpretation of its objectives and functions, the CB cannot possibly meet those expectations or reach those objectives that the country’s political leadership has placed before it.</b> At the same time, adopting a new Resolution on the Coordination Bureau (or reworking the old Resolution) will not resolve all existing problems. This step needs to be seen in the context of previous steps, that is, changing the status of the CB and its subordination.</p>
Department functions	Three departments: Department for Monitoring Ukraine-EU Relations, Department for European Integration Strategic Planning, and Department for Euroatlantic Integration	The objectives of the three Departments follow the logic of the Bureau’s objectives, that is, their primary purpose is also organization the Cabinet of Ministers and the Coordination Bureau on specific issues. Their names are appropriate to political expectations of them. However, in reality, only the Department for Monitoring of Ukraine–EU Relations has objectives and carries out functions that match these expectations.
Horizontal links to ministries	The Bureau interacts with other internal departments of the Secretariat, relevant offices of the VR apparatus, and the President’s Secretariat, CEBs and local governments, missions of other countries and international organizations in Ukraine, and Ukraine’s diplomatic missions abroad	The CB can “interact” with other Ministries and agencies and work with foreign partners. Still, the Bureau has direct contact with and influence on Ministries and agencies only through a limited number of instruments in which its representatives are involved as members or secretaries: the Ukrainian sides of the Council and Committee and the Coordinating Council on adaptation.

# Options for closing the gap

In this part of the report, our analysis is presented, comparing the Coordination Bureau to specific departments, such as the Office of the Prime Minister, and specific central executive bodies (CEBs) with special status, such as the State Department for Adaptation under the Ministry of Justice, the State Regulatory Commission for Financial Services Markets (Derzhfinposluh), and the National Agency of Ukraine for Development and European Integration (NAUDEI)<sup>3</sup>, which operated in the 1990s. The criteria established earlier in this report were used in this comparison: status, subordination, objectives/functions, and lateral links. This makes it possible to demonstrate best practice that once worked or currently works in a Ukrainian context and to determine further steps.

## *Coordination Bureau*

Criterion	Description	Evaluation
<b>Subordination</b>	Minister of CMU	No link to political level (DPM)
<b>Status</b>	Department under the CMU	Influence limited, as for other such departments
<b>Functions</b>	Support	Coordinating and monitoring functions not directly established, no clear link to activities or objectives of DP  “Organizer” functions do not include interagency coordination of Eurointegration policy or the initiation of draft policies and oversight of implementation
<b>Possible steps</b>	Supporting CMU activities in certain aspects of European integration	In reality, organizing meetings and monitoring the implementation of decisions by the Ukrainian sides of the Council and Committee and drafting orders

<sup>3</sup> Detailed description of these bodies is provided in Addendum 1.

### *The Office of the Prime Minister*

<b>Criterion</b>	<b>Description</b>	<b>Evaluation</b>
<b>Subordination</b>	Directly to the Prime Minister of Ukraine	Direct link to political level
<b>Status</b>	Ancillary to Secretariat of CMU, has no status as legal entity	Ancillary, but even without legal status, it can influence the drafting and enactment of policy (partly through subordination)
<b>Functions</b>	Coordination and monitoring functions clearly defined	Clarity of functions, possibility to participate in policy-making and implementing process, undertake direct oversight (limited list of functions for CB)
<b>Possible steps</b>	Monitoring and evaluating effectiveness	No gap between functions and powers

### *The State Department for Adaptation under the Ministry of Justice*

<b>Criterion</b>	<b>Description</b>	<b>Evaluation</b>
<b>Subordination</b>	Ministry of Justice of Ukraine	Linked to political level through Minister
<b>Status</b>	Under the Justice Ministry; legal entity; Director appointed through CMU	Limited political influence, but has financial and legal instruments at its disposal like a separate CEB
<b>Functions</b>	Organization of implementing public policy and undertaking compliance reviews clearly defined	Strategic functions clearly defined as: drafting policy, monitoring implementation and reviewing compliance
<b>Possible steps</b>	Drafting bills of law, other normative and legal acts, drafting projects for developing Ukraine's laws, undertaking legal reviews and drafting conclusions	The right to develop policy, monitor implementation of legislation, coordinating activities in the adaptation of Ukraine's legislation to EU requirements

## *The State Regulatory Commission for Financial Services Markets*

<b>Criterion</b>	<b>Description</b>	<b>Evaluation</b>
<b>Subordination</b>	President of Ukraine	Direct link to political level
<b>Status</b>	CEB with special status; legal entity	Sufficient influence to reach its designated objectives
<b>Functions</b>	Strategic policy-making level of activity	Clearly defined, right to draft policy established. Important regulatory aspect also established (registration and licensing)
<b>Possible steps</b>	Participation in forming CMU Action Programs and their implementation. Drafting State Programs for socio-economic development and Budget bills; licensing activity	No gap between functions and permissible actions

## *The National Agency of Ukraine for Development and European Integration<sup>4</sup>*

<b>Criterion</b>	<b>Description</b>	<b>Evaluation</b>
<b>Subordination</b>	Cabinet of Ministers (Director was Cabinet Member)	Suitable political level
<b>Status</b>	Same status as a Ministry; legal entity	As in other ministries, in the absence of the DP, options to really affect the situation are limited
<b>Functions</b>	Providing interagency coordination on inter-branch economic and social cooperation between Ukraine and the EU	Clarity of functions, right to coordinate the policy drafting and implementation processes on an ongoing basis, to undertake direct oversight (sufficient functions for the CB, but some reformatting will be necessary because of function involving coordination of international technical and financial assistance
<b>Possible steps</b>	Initiating, coordinating, monitoring and evaluating	No gap between functions and permissible actions

<sup>4</sup> The example of NAUDEI was used after a detailed look at the practice of other countries. Based on its objectives and functions, this agency is pretty much "picture perfect."

# Conclusions and recommendations

## Conclusions

The analysis presented in this report suggests that there is a considerable gap between political objectives and expectations and the actual situation with the Coordination Bureau for European and Euroatlantic Integration. In effect, the name has changed, but neither the status nor the subordination of the Bureau, nor its core objectives and functions—and therefore its actions—have been changed. If the *status quo* is maintained, the dissatisfaction of the country's political leadership with the Bureau's efforts and its staff will grow, as they will be unable to meet political expectations. Undertaking qualitatively new objectives and resolving problem issues such as strategic planning for European integration policy and raising the necessary international funding for this strategy, will remain at the level of expectations and plans. In addition, dissatisfaction and disenchantment on the part of foreign partners will also grow, as they have still to see a "one-stop shop" for European integration at the administrative level.

Another possible development would be to strengthen the current system, i.e. the ministries as coordinating bodies. However, even if it does remove some politically sensitive issues and satisfies most players, will not be enough to undertake the political challenge.

The final option, reforming the Bureau, and transformmming it into a coordinator at the administrative level is complicated, especially in a situation where the government machine remains unreformed and financial resources are scarce. Nevertheless, it seems to be the best option, given the expectations and objectives of political leaders. The reform of the Bureau needs to take place along all criteria simultaneously: its status has to be changed and its subordination, qualitatively new objectives and functions need to be determined and designated, new horizontal relations between the Bureau and Ministries need to be described, and the Bureau should receive political, institutional and financial instruments of influence over central executive bodies (CEBs).

## Recommendations for action

Taking into consideration the political sensitivity of this issue and financial limitations, we propose undertaking the reform of the Coordination Bureau in two stages:

**In the first stage**, the subordination of the Bureau should be altered and the CB made **directly "politically" accountable** to the Deputy Prime Minister for European and International Integration similarly to the Office of the Prime Minister. In addition, **the Bureau's objectives and functions** will have to be adjusted, as well as those of its departments by changing the Provisions on the Coordination Bureau. As a basis, we propose using the objectives and functions set out in the "Political objectives and expectations" section of this report. The Bureau's functions should be translated into concrete outputs, which will allow the Deputy Prime Minister to evaluate the Bureau's performance. At this stage, **horizontal links** with Ministries can be strengthened through a number of coordination mechanisms on the most critical issues, such as strategic planning of European integration policy, attraction and using foreign aid and establishing cooperation with the Verkhovna Rada.

These changes could be formalized through the approval of a new version of Resolution of the Cabinet of Ministers and necessary funds could be secured.

The political decision to make these changes needs to be taken as soon as possible. The actual changes should take place in the next few months, as this stage is a transitional period and should not last longer than a year. We propose that the remainder of 2009 be dedicated to preparing for the next stage.

At this stage, the Bureau has to 'build the ship while sailing', i.e. in parallel to the Bureau reform, the CB's management has to identify two-three priorities (e.g. installment of the strategic planning and management system for the implementation of the future EU-Ukraine Association Agreement, attraction of foreign aid for the implementation of new objectives, etc) and introduce them within the incumbent rules of the game. The introduction and implementation of these priorities should be assessed by Deputy Prime Minister at the end of 2009. Successful introduction and implementation of these priorities will add arguments for the transfer to the next stage.

**In the second stage**, the Bureau should be completely removed from the Secretariat of the Cabinet of Ministers and granted status as a separate CEB (legal entity). Political links (subordination) should remain at the level of the Deputy Prime Minister. At the same time, the top posts in the Bureau should be granted higher status, which will allow the CB to handle administrative issues without excessively burdening the DPM. The functions of the Coordination Bureau should reflect its new objectives and competencies—obviously, based on the objectives and functions that are designated in the Provisions of the Bureau in the first stage. At this second stage, the CB should also be granted financial instruments of influence over Ministries, which can be regulated by transferring the functions of the coordinator of European integration programs, such as public awareness campaigns, training and so on, to the Bureau level.

At the same time, the adjustment of the status, functions and competences of the Coordination Bureau is not enough for the re-launch of the whole coordination mechanism. In this view, it would be helpful to support the process of the Association Agreement ratification with a draft law on the mechanism of coordination in the sphere of European integration. This document will regulate the issues of horizontal coordination within the government (including, the functioning of the Bureau) and the cooperation between the government and the parliament for the implementation of the above-mentioned agreement.

*Part II*

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# **MANAGING FOREIGN AID IN UKRAINE**



# Why foreign aid should be discussed

In international donor practice, foreign aid is divided into four basic instruments: 1) humanitarian assistance, 2) food and goods aid, 3) technical assistance, and 4) budget support. These instruments differ in their primary objectives. The first and second are used to deal with urgent problems in the beneficiary country, such as a scarcity of provisions, reconstruction after armed conflicts, and natural disasters. The third and fourth types are directed at more strategic initiatives such as sectoral reforms, institution building, and infrastructure development in the beneficiary country.

Ukraine has been a recipient of foreign aid since it became independent. During this time, nearly **US \$6bn<sup>1</sup> has been provided in the form of goods and technical assistance**. The biggest donors in Ukraine are the European Union and individual EU member states (Sweden, Great Britain, Denmark, Germany, Holland, Slovakia, and Poland), the United States of America, Canada, Japan, and Switzerland, as well as the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE).

Since 2007, the European Union has also extended to Ukraine—and other countries covered by the European Neighborhood Policy—an instrument of **sectoral budget support**. This has meant that Ukraine has gained the opportunity to receive **“live” money for its State Budget** for the development of specific sectors. In September 2008, the Government of Ukraine and the EU signed the first agreement for drawing on budget support.

The Agreement calls for financing the carrying out of the **“Support for Implementation of Energy Strategy of Ukraine”** program over a five-year period. The overall cost of the support is EUR 87mn. The money was transferred by the European Commission in December 2008.

However, in nearly three months since the start of the program, these funds failed to make it to the account of the Ministry of Fuel and Energy of Ukraine—and their application remains under question to this day. The formal explanation on the Ukrainian side is that there is no Procedure for Utilizing Budget Funds for 2009. This makes it quite clear that the current mechanisms within the Government failed and the problem was neither revealed nor resolved in time.

Representatives of the European Commission are aware of the problem. At the moment, they have not issued any official reaction to the situation. It is

<sup>1</sup> Source: Draft Strategy for International Technical Assistance Attraction for 2008 – 2011.

unlikely that the EC will decide not to use the budget support instrument altogether in Ukraine. However, the failure to resolve the problem with this pilot initiative on budget support could have negative consequences for the continuation of this program and for the drawing of funding to other sectors.

As is the case with international technical assistance, Ukraine has proved unable to effectively utilize budget support funding from the EU. As a result, aid programs continue to have a limited impact on the country. Over more than a decade, the country's Governments continue to rotate, national and sectoral development programs continue to be developed and improved, government agencies continue to be established and shut down—and foreign aid continues its own life in a parallel world.

The financial and economic crisis has placed new conditions before Ukraine. In addition to the unresolved problems that already exist, new ones have appeared. Meanwhile, the country is already feeling the first consequences. The capacity of both domestic and foreign business to invest in the country's economy and to "settle accounts" for structural and sectoral reforms is shrinking. Only a handful of external sources of funding remain open to Ukraine: credits from international financial institutions (IFIs) and individual countries, and international technical and financial assistance.

Given Ukraine's needs, both to overcome the crisis and to carry out reform, the current levels of foreign aid are not impressive. Still, in light of the crisis and restricted resources, foreign aid nevertheless carries more weight. The question arises, Will Ukraine be able to satisfy the need for reforms, for institution and infrastructure development on its own? Can the country allow itself to waste those resources that are lying on top? Will Ukraine be able to be effective in overall management and development if it is unable to effectively handle its own finances and those funds that it might draw from abroad?

This report offers a brief overview and assessment of the system for managing foreign aid, that is, of drawing and utilizing funds, in Ukraine today; sets out the conditions and requirements for a new context, that is, a switch on the part of donors to a budget support instrument; proposes one type of managing system in line with this new context; and offers recommendations for the transition to this new system, both on the political level and on the administrative one.

# Ukraine's current aid coordination system

The main condition for effectively drawing and utilizing foreign aid is having a support process in place at a politically high level and clearly defined strategic priorities for national development to which the priorities for drawing aid and the system and mechanisms for managing such aid are connected.

## Political backing

Foreign aid was the center of political attention from 1995 through 2000. The politicians were quite aware of the importance of such aid to Ukraine. At the same time, there were separate executive bodies with special status, that coordinated the process of drawing and utilizing aid: the Agency for Coordination of International Technical Assistance (1995 – 1996), the National Agency for Reconstruction and Development (NARD, 1996 – 1998), and the National Agency of Ukraine for Development and European Integration (NAUDEI, 1998 – 2000). The management of these agencies provided political support for the process of drawing aid and functioned in an oversight capacity to ensure this aid was effectively used. In the 1990s, there was also an attempt to designate a coordinator for specific areas of aid. In 1999, a Deputy Prime Minister was designated as the Coordinator of cooperation between the Cabinet of Ministers of Ukraine and international financial institutions.<sup>2</sup>

In 1998, the post of Government Plenipotentiary for European and Euroatlantic Integration was established as a Deputy Premiership. One of the functions of this post was to ensure the overall coordination of the international technical and financial assistance that was directed at integrating Ukraine into European and Euroatlantic structures. However, frequent shuffles of Deputy Prime Ministers and the lack of a clearly established system of coordination made it impossible to apply this mechanism to the fullest. In addition, the position of this Government Plenipotentiary in the current management system remains confusing.

The elimination of NAUDEI in 2000 and the transfer of its functions and powers to the Ministry of Economy were intended to strengthen the role of the aid coordinator *de jure*. But in reality, this step led to the loss of focus on aid at the Cabinet level. Since that, nearly 10 different people have held this portfolio, each of which had different priorities in terms of the actual Ministry. In 2003, yet another attempt was made to designate a coordinator for specific

<sup>2</sup> Approved by Cabinet Instruction №216-p of 24 March 1999. This instruction lost effect on 13 January 2000.

areas of assistance: the Minister of Economy was designated the National Coordinator for EU technical assistance, as part of his post.<sup>3</sup> Yet the issue of this assistance was actually only dealt with by designated department heads within the Ministry of Economy.

In December 2007, the post of Deputy Prime Minister for European and International Integration was revived in the Cabinet of Ministers once again. *De facto*, this Deputy Prime Minister's portfolio also includes the coordination of foreign aid. Still, this aspect of his role was never formalized and responsibility for coordination continues to be with the Ministry of Economy. Even without a formal post called "National Coordinator" at the level of a Deputy Prime Minister, donors treat him like the only partner at the highest political level when it comes to agreeing Ukraine's aid priorities.

## Clear strategic priorities for national development

Ukraine is in dire need of reform. Undertaking these reforms is possible only if there are clearly-established priorities set out in a single national strategic document. Correspondingly, the necessary foreign aid can be drawn to carry out these priorities.

At the moment, Ukraine has no such document. Rather, there is a large number of documents, each of which establishes new priorities that are not necessarily compatible among themselves. These include the President's annual State of the Nation address on Ukraine's internal and external situation; the Government's Action Program (which still has not been approved by the Verkhovna Rada); the Strategy for Ukraine's European Integration (approved back in 1998 (!)); and others.

The Ministry of Economy made a number of attempts to put together a "roadmap" for donors for those situations where priorities have not been clearly defined. A Strategy for Drawing International Technical Assistance for 2004–2007 was put together and the drafting of a strategy for 2009–2012 was begun in 2008. Still, until there is a single, consolidated strategic development document in Ukraine, the effectiveness of any strategy for drawing foreign aid will remain questionable.

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<sup>3</sup> Presidential Decree №1238/2003 of 1 November 2003.

## A system for coordinating foreign aid

At this time, the drawing and utilization of foreign aid is focused on three main areas:

- Coordinating aid from international financial institutions (IFIs)
- Coordinating technical assistance from individual donor countries, and
- Coordinating aid from the European Union, including specific aid instruments.

### *Coordinating aid from IFIs*

**Normative base:** In November 2008, Cabinet Resolution №1027 established a new Procedure for initiating, preparing and undertaking socio-economic development projects in Ukraine that are supported by international financial institutions.

**Aid Coordinator:** According to this Resolution the Ministry of Economy is established a coordinator of the work involving the initiation, preparation and undertaking of socio-economic development projects in Ukraine that are supported by international financial institutions, with the exception of the International Monetary Fund.

At this time, it is impossible to draw any conclusions as to the effectiveness of the newly-formed system. This report provides limited information about how the assistance of IFIs is drawn and utilized because the main focus here is on aid from individual donor countries and the European Union.

### *Coordinating international technical assistance from individual donor countries*

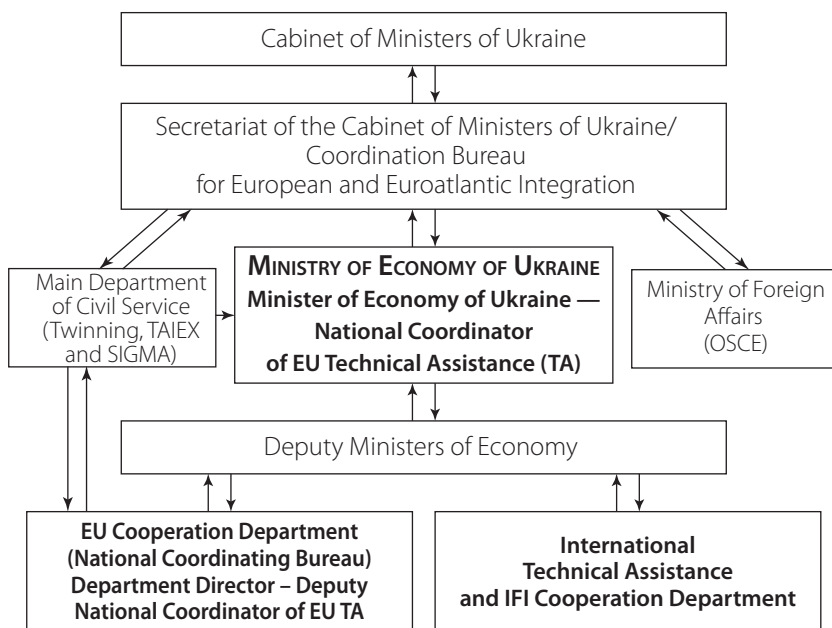
**Normative base:** The main normative and legal document that regulates **international technical assistance** is Cabinet Resolution №153 "On establishing a unified system for drawing, utilizing and monitoring international technical assistance" of 15 February 2002.<sup>4</sup> This Resolution approves a Procedure for drawing, utilizing and monitoring international technical assistance.

**Coordination system:** Within the context of existing legislation, Ukraine actually has such a coordination system regarding the drawing and utilization of international technical assistance (see Chart 1).

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<sup>4</sup> Resolution # 1317 regulates IFI funding.

**Chart 1. Current international technical assistance coordination system**



**Cabinet of Ministers of Ukraine:** The Cabinet of Ministers is a higher body in the system of executive bodies that exercises direct executive power and, through the offices of the Ministries and other central executive bodies (CEBs), ... directs, coordinates and oversees the activity of the designated bodies. In the exercise of these powers, the Cabinet of Ministers issues resolutions and instructions.<sup>5</sup>

**Secretariat of the Cabinet of Ministers of Ukraine:** In accordance with the CMU Regulation, the Secretariat of the Cabinet of Ministers is the last link in the chain in the preparation of draft documents that are submitted for review and approval to the Cabinet of Ministers. The newly-established **Coordination Bureau for European and Euroatlantic Integration under the CMU** handles the drawing and utilization of aid from the EU, NATO and EU member-states by “organizing, providing expert analysis and informational support and other activities in support of the work of the Cabinet of Ministers of Ukraine, Government committees, the Prime Minister of Ukraine, the First Deputy Prime Minister of Ukraine, the Deputy Prime Ministers of Ukraine ..., the Minister of the Cabinet of Ministers of Ukraine and his deputies” in this area.”<sup>6</sup>

<sup>5</sup> Cabinet of Ministers of Ukraine Regulations.

<sup>6</sup> Resolution on the Coordination Bureau for European and Euroatlantic Integration.

**Aid Coordinator: The Ministry of Economy of Ukraine** undertakes overall coordination tied to the drawing, utilization and monitoring of international technical assistance, in accordance with Presidential Decree №1238<sup>7</sup> of 1 November 2003, Cabinet Resolutions №153<sup>8</sup> of 15 February 2002 and №777<sup>9</sup> of 26 May 2007. Within the Ministry responsibility for international technical assistance matters is delegated to the **Department of International Technical Assistance and Cooperation with International Financial Institutions and the Department of EU Cooperation**.

**The functions of the Ministry of Economy include:**

**Drawing funds and programming:**

- enacting state policy in cooperation with donor countries and international organizations on the drawing of international technical assistance;
- formulating strategic and annual programs that draw international technical assistance related to priority areas of socio-economic development in Ukraine and coordinating activities tied to drawing such assistance;

The Economy Ministry turns with a request to CEBs regarding their needs for international technical assistance. The Ministry then analyzes all the submitted proposals as to their relevance to priority areas established in the State Program for Social and Economic Development for the current year and in development programs for related sectors. Based on this analysis, the Ministry prepares a consolidated document that forms the basis for a Strategy for Attracting International Technical Assistance. Following generalized proposals from the Ministry of Economy and their own aid strategies, donors prepare an Action Plan in which they state the goals, areas of activity, expected results, management procedures, and the overall sum of financing for Ukraine.

**Registering and accrediting executors:**

- running the state registration/reregistration program and international technical assistance (ITA) projects in Ukraine;
- undertaking expert reviews and approving applications for international technical assistance from domestic businesses, institutions and organizations;

**Monitoring:**

- coordinating measures to develop and undertake TA programs and projects, monitoring the effectiveness of their execution, and overseeing the

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<sup>7</sup> "On a National Coordinator of technical assistance from the European Union.

<sup>8</sup> "On setting up a consolidated system for drawing, utilizing, and monitoring international technical assistance."

<sup>9</sup> "On approving the Resolution of the Ministry of Economy of Ukraine."

upholding of the terms and conditions for executing such programs and projects;

Resolution №153 defines monitoring projects or programs as "a system of overseeing the progress of projects." In practice, this means that the Ministry of Economy regularly receives reports from TA project and program executors, and this data is collected in a database. Still, performance assessments for projects and programs are not undertaken. Given that TA funding is largely absorbed by foreign organizations the Ministry of Economy is not interested in evaluating the effectiveness of these projects and programs.

### The Donor-Government Working Groups: Where priorities are agreed?

In 2006, the Economy Ministry began more centralized cooperation with donors through the launch of **five joint Donor-Government Working Groups**: 1) support for economic reforms; 2) improving the standard of living; 3) support for institutional and administrative reforms; 4) networks; and 5) the energy sector. These areas match the commitments Ukraine has made under the Paris Declaration, which it joined in 2007.

Each of these groups has been divided into thematic subgroups (22 altogether). Both thematic groups and subgroups are co-chaired by a representative each from the donors and the executive government in Ukraine. The subgroups have begun the work of finding common ground. Their objective was to outline the areas and priorities for drawing foreign aid from all donors that are working with Ukraine.

**Still, this work was halted after an unexpected and unjustified reorganization of the Ministry of Economy in 2008.** The Department for Coordinating International Technical Assistance was closed down and its functions turned over to the Department for Cooperation with IFIs. However, the latter was not provided with the necessary additional personnel or the necessary instruments for this work. The "joint platform" for agreeing Government and Donor positions had disappeared. **This means that even the existing simple aid coordination system was considerably weakened, both within the Government and outside it. The Country returned to a practice of piecemeal consultations with individual donors, which greatly reduced the quality and effectiveness of both drawing and utilizing aid.**

### *Coordinating aid from the EU-27*

In addition to this, the Minister of Economy functions as the National Coordinator for EU Technical Assistance (NC), which is handled by the European Commission.<sup>10</sup> Initially, the National Coordinator was supposed to oversee the drawing and utilization of funds under the Tacis program, an EU instru-

<sup>10</sup> In accordance with Presidential Decree №1238 of 1 November 2003.

ment that ran from 1992 – 2006. Since 2007 the NC is responsible for EU assistance in the context of the European Neighborhood and Partnership Instrument (ENPI). Thus, the NC serves as a one-stop-shop for the European Commission.

The main functions of the National Coordinator are:

- to take part in supporting the strategic course of integrating Ukraine into the EU;
- to organize the preparation and submission, in the proper order, of propositions on how to improve the mechanisms for interaction among government bodies and local government bodies in Ukraine with EU institutions in the sphere of technical assistance, to introduce new forms and programs of EU assistance in Ukraine;
- to ensure that EU technical assistance resources are drawn and applied in a consistent manner to achieve the goals set in agreements between Ukraine and the EU;
- to support CEBs in establishing and developing relations with corresponding EU institutions on issues of drawing technical assistance;
- to encourage local executive bodies and local governments to develop relations with European regional structures on issues of drawing technical assistance;
- to organize the preparation of indicative technical assistance programs;
- to ensure the preparation of Ukraine's propositions regarding the annual Action Plan, memoranda on financing and other documents on drawing technical assistance, and to develop these documents with the relevant EU institutions;
- to coordinate activities in executing technical assistance programs and their individual components, including national and regional programs, crossborder cooperation programs, nuclear safety programs, and small projects;
- to carry out any other functions related to the receipt and utilization of technical assistance.

The NC's work is supported by the National Coordinating Bureau (further Bureau), whose functions fall under the Department of EU Cooperation. The director of this Department is also the director of the Bureau and simultaneously the deputy of the National Coordinator. The Bureau is responsible for coordinating programs and project implementation under the Tacis program, which continues to operate in Ukraine, and ENPI program. Two of the five units in this Department coordinate EU assistance: the Unit of EU Cooperation Instruments and the Unit of Sectoral Cooperation under the European Neighborhood Policy. The first Unit is responsible for coordinating the Crossborder Cooperation Program under the ENPI and individual assistance instruments such as Twinning, TAIEX and Tempus. The second is responsible for coordinating activities under the National and Regional ENPI Programs.

## Coordinating individual EU instruments

Once the Twinning<sup>11</sup>, TAIEX<sup>12</sup> and SIGMA<sup>13</sup> instruments were extended to Ukraine, their coordination was handed over to the Main Department of Civil Service of Ukraine.

**Twinning:** The Main Department of Civil Service directs and coordinates activities in the preparation and execution of the Twinning program in Ukraine through the Administrative Office,<sup>14</sup> coordinates the preparation of Twinning projects, analyzes project proposals and prepares a list of draft proposals for review and approval by the Ukrainian Part of the EU – Ukraine Cooperation Committee, provides government bodies with consultations and methodological assistance in preparing and executing Twinning projects, and monitors the progress of all these projects.

**TAIEX:** The TAIEX instrument is used in Ukraine in accordance with the Procedure for preparing and executing plans to draw foreign aid from the European Commission under the TAIEX program.<sup>15</sup> The Main Department of Civil Service prepares a draft plan of assistance that will be sought under TAIEX, based on proposals from CEBs, and submits these for review to the Ukrainian Part of the EU – Ukraine Cooperation Committee. It also provides government bodies with consultations and methodological assistance in preparing and executing the TAIEX instrument and monitors its application.

## Conclusions

Support for the process of drawing and utilizing foreign aid is *de facto* present at a high political level. Even without the formal attachment of the role of National Coordinator of all aid to the Deputy Prime Minister, he, in fact, carries out this role.

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<sup>11</sup> Twinning is a new form of technical cooperation between CEBs in the recipient countries and government bodies in the EU member states.

<sup>12</sup> TAIEX (Technical Assistance Information Exchange) is an instrument of external aid provided by the European Commission for the exchange of information in the process of developing the institutional capacity necessary to adapt national legislation to the *acquis communautaire*. This instrument was created in 1996 by the EC's Directorate General for Enlargement in order to assist candidate countries in resolving problems instituting the EU *acquis* in a short time-frame. Source: The Main Department of Civil Service.

<sup>13</sup> At the request of the Government of Ukraine and with the financial support of the United Kingdom's Department of International Development (DFID) and the Swedish International Development Agency (SIDA), and with the assent of the European Commission, SIGMA undertook an assessment of public administration in Ukraine in 2006. In 2007, SIGMA presented its updated report. Source: The Main Department of Civil Service.

<sup>14</sup> The functions of the Twinning program's Administrative Office fall under the Center for the Adaptation of the Civil Service to EU standards. The Main Department of Civil Service appoints and dismisses the director of this Administrative Office and determines what powers are granted, approves the procedure for preparing and executing projects under the Twinning program.

<sup>15</sup> Approved by Cabinet Resolution №316 of 9 April 2008.

The country currently lacks a single document that consolidates all strategic development priorities. Thus, the Ministry of Economy has no clear orientation when seeking foreign aid.

Currently, three parallel processes are involved in drawing aid and they are not coordinated amongst themselves. As a result, these processes also contain problems:

- The Minister of Economy, who handles both IFIs aid and aid from individual donor countries and the EU, is unable to effectively agree these processes, whether at the Government level or within his own ministry.
- Funds drawn from the IFIs are more clearly established and underpinned legally. However, only at the initiative and with the political support of the Deputy Prime Minister for European and International Integration, changes were made to the procedure for drawing and utilizing such funds.
- The drawing and utilization of international technical assistance funds from individual donor countries and the EU remain parallel processes that are not coordinated, which affects the effectiveness and integrity of the aid.
- Although the receipt of TA is a more-or-less established process—there is a legal base, there are instruments—, the drawing of financial aid such as budget support is completely unregulated.
- The responsible Departments in the Ministry of Economy have a broad range of functions in terms of managing aid and this covers nearly all stages, from strategic planning to operational work, e.g. registering projects. Still, the size of the staff in both Departments is too small to clearly delineate responsibility, separate out functions and ensure aid effectiveness.
- A number of key functions, such as evaluating the effectiveness of how aid is used are not handled at all in the practice of these Departments.

# A new aid context: Opportunities for Ukraine

## Donors: More coordinated and effective aid

In 2007, the European Union changed its approach to providing aid to third-party countries. Two documents, the European Consensus on Development and the Paris Declaration on increasing aid effectiveness<sup>16</sup> are the basis for aid from the EU, its member states and other donors.

The European Consensus on Development acknowledges the desire of EU member states to more effectively coordinate activities involving the provision of aid to third countries. The European Commission now has a more clearly defined coordinating and directing role on behalf of the EU and its member states. Aid can be given using a variety of instruments, that is, from technical assistance to general/sectoral budget support. The EU is hoping to gradually increase the percentage of budget support to third countries—to 50% of aid by 2010.

Along with this, the European Commission established a new financial instrument in 2007 for cooperation with third countries in the context of its European Neighborhood Policy, which includes Ukraine. The European Neighborhood and Partnership Instrument (ENPI) replaces the old Tacis program. The new instrument provides general/sectoral budget support and technical assistance to neighboring countries, whereas Tacis program only allowed technical assistance.

## Budget support: Operationalizing the concept

**Budget support** is an instrument for injecting funds from the budget of donor country or organization to the State Budget of beneficiary country to support the execution of reforms and policies that will lead to the achievement of clearly designated and agreed strategic objectives.

Budget support can be general or sectoral:

- **General budget support** provides for funds to be transferred for the execution of national development programs or strategic reforms.

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<sup>16</sup> The Paris Declaration contains the main commitments of leading countries of the world to increase the effectiveness of foreign aid. The Declaration was adopted on 2 March 2005, with 91 signatory countries, 26 international organizations, and 14 non-governmental organizations. As of today, 125 countries, 27 international organizations and 14 NGOs have signed on. Ukraine joined the Paris Declaration in April 2007.

- **Sectoral budget support** provides for funds to be transferred for the execution of programs aimed at the development of specific sectors of the economy.

## EU Sectoral Budget Support for Ukraine, 2008–2009

In December 2008 the “**Support for Implementation of an Energy Strategy of Ukraine**” program kicked in. It is co-financed by the European Union to the tune of **EUR 87mn**, of which **EUR 82mn** is budget support and **EUR 5mn** is technical assistance. For 2008,\* plans are to receive EU budget support to execute two following programs:

- **Trade facilitation (norms and standards).** EU support: **EUR 45mn**, of which **EUR 39mn** is budget support and **EUR 6mn** is technical assistance;
- **Greater energy efficiency.** EU support: **EUR 70mn**, of which **EUR 63mn** is budget support and **EUR 7mn** is technical assistance.

The European Commission also made a preliminary decision to co-finance two additional sectoral programs in 2009:

- **Support to development of transport sector.** Estimated EU support: **EUR 40mn**, of which **EUR 35mn** is budget support and **EUR 5mn** is technical assistance;
- **Protecting the environment.** Estimated EU support: **EUR 77mn**, of which **EUR 72mn** is budget support and **EUR 5mn** is technical assistance.

\* *The money is transferred in the following year.*

### *Specificities of budget support attraction*

**General accountability (“co-ownership” of the process):** More responsibility for the drawing and utilization of sectoral budget support now lies with the beneficiary country. The Government of beneficiary country must: approve priorities (sectors) for which the aid will be provided; elaborate a sector development strategy/program, including efficiency indicators; designate the agencies that will be responsible for executing the sectoral program and, at the same time, the ultimate recipient of the EU’s sectoral budget support.

**The recipient of support funds:** Budget support funds are transferred into the State Treasury account of the beneficiary country and form part of that country’s State Budget (unlike TA, where the money generally covers the expenditures of the foreign consultancies that execute projects).

**Clear criteria for providing aid:** The country must have: a) a sector development strategy and/or program; b) stable and predictable macroeconomic

policy; c) a State Budget and medium-term plan for Budget expenditures; d) an effective system for managing public finances; e) a mechanism for coordinating donors; and f) a performance evaluation system for the strategy/program.

**Utilization of funds:** This shall be undertaken in compliance with the rules and procedures for financial management for beneficiary countries.

**Financing:** Direct budget support that is serviced by a technical assistance project.

**Monitoring and evaluation:** At the point when the European Commission transfers money, it reviews compliance with the criteria for providing aid and oversight of the funds transferred to the Treasury account of the beneficiary country. After the money is transferred, all responsibility for managing the funds moves to the Government of the beneficiary country. Oversight of the utilization of the money is handled by an authorized body in the beneficiary country, which increases the responsibility of this country. Oversight of the execution of each program is handled by a specially-established Joint Monitoring Group.

### *Advantages of budget support*

Budget support has a slew of advantages over technical assistance. Among the **general/indirect advantages** are: a reorientation of state policy planning towards the medium and long term in beneficiary countries, away from constantly "putting out fires," and towards improving the budget process and public financial management system.

Among **direct advantages** are: greater "ownership" among beneficiary countries for determining aid priorities, funding dedicated to concrete programs, reduced costs for drawing and utilizing aid on the part of the beneficiary countries, and fewer opportunities for misappropriation of funds and corruption, such as kickbacks.

# A new aid context: A new system for aid coordination

The change in the aid approach and instruments provided by the European Union and its member states will require an evaluation of the way that foreign aid is managed in Ukraine. The evaluation needs to look at a number of key criteria:

- Who coordinates the process of drawing and utilizing foreign aid?
- How is the drawing and utilization of foreign aid regulated?
- What is the process of strategic planning to draw foreign aid?
- What is the process of financial planning, especially in the case of budget support? How prepared is the beneficiary country in terms of its legislative base, institutions and procedures?
- How transparent and effective is the public financial management system, especially in the case of budget support? How well do procedures for internal control and audit comply with international standards?
- What kind of donor coordination system does the beneficiary country have? How effective is it?
- What kind of monitoring and performance evaluation system is there with regard to foreign aid? What kinds of procedures and mechanisms does it entail? Who is responsible to report the results of monitoring and evaluation and how is that information used?

**Table 1. Evaluation of the current foreign aid coordination system**

Criteria	Required by “new context”	Existing system
<b>General management of process</b>	Support and general management of the process at a high political level.  A national coordinator for all aid	<b>Absent</b>
<b>Legislation and norms</b>	A single, consolidated document that regulates the drawing and utilization of foreign aid (possibly separated according to technical assistance, budget support and IFI aid)	<b>Absent</b>
<b>Strategic planning for drawing aid</b>	Beneficiary country initiates process and drafts strategic development priorities for which various forms of foreign aid are drawn (donor funds are auxiliary)	<b>In doubt</b>  MinEcon drafts, Cabinet approves a strategy for foreign aid. Strategy includes as many as 20 priorities under which aid can be drawn.  However, the lack of a single strategic development document in Ukraine makes it impossible to designate clear priorities for foreign aid—which should be no more than 3-5
<b>Financial planning</b>	During the drafting of the State Budget, the beneficiary country should take into account opportunities to draw budget support funds from donors and plan accordingly	<b>Absent</b>  No requirement to plan for possible budget support during the drafting of the State Budget of Ukraine. Resolution №153 does not refer to budget support at all.  Financial planning for foreign aid projects and programs is not seen as an additional source to support the carrying out of the country’s strategic development programs
<b>Transparent financial management</b>	The beneficiary country should have a transparent system for managing public finances. Procedures for internal control and audit should comply with international norms.	<b>In doubt</b>  The public finance management system in Ukraine is only partly in line with international norms. The Ukrainian system is in the process of being harmonized with international and European norms with the support of a number of TA projects <sup>17</sup>
<b>Donor coordination</b>	The partner country should be capable of coordinating donor activities and have effective mechanisms and procedures.	<b>Absent</b>  By joining the Paris Declaration in 2007, Ukraine committed itself to coordinate donor activities, but the practice of coordinating donors through the Donor-Government Working Groups started by MinEcon is not working. In fact, there is no donor coordination in Ukraine

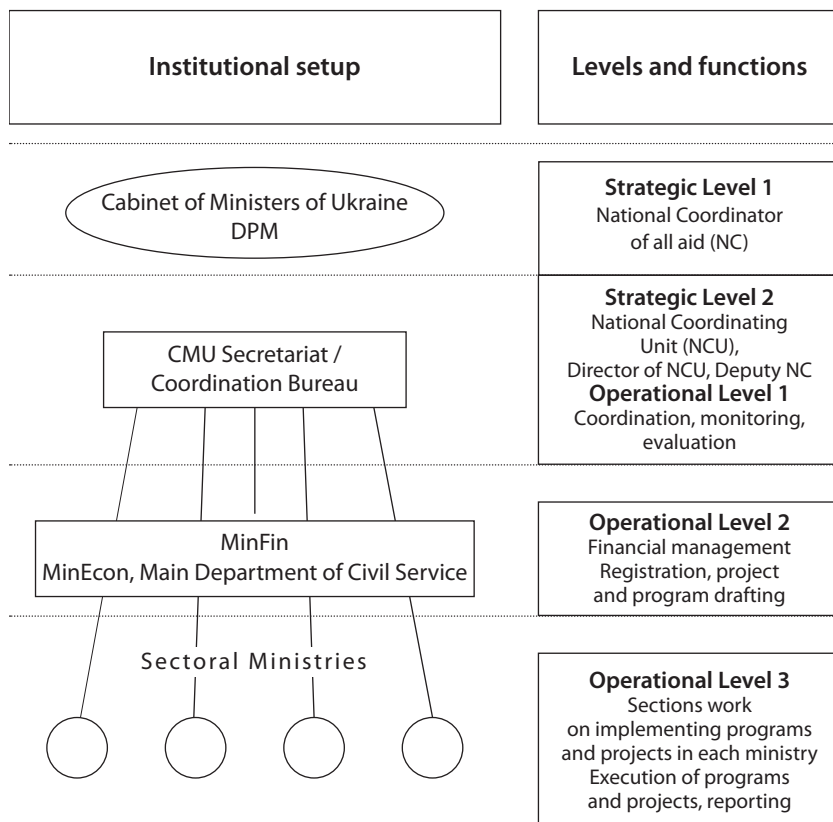
<sup>17</sup> 1) Assistance to the Main Control and Audit Administration of Ukraine in instituting a new system of internal control of public finances (Twinning program) 18.09.2007 – 17.12.2009; donor: EC.

2) Public Finance Modernization Project, 2008 – 2013, under a loan from the IBRD.

Criteria	Required by “new context”	Existing system
<b>Aid monitoring and evaluation</b>	<p>The country should have an aid monitoring and performance evaluation system in place. According to the EC, the evaluation criteria should include:</p> <ul style="list-style-type: none"> <li>• the appropriateness of the actual aid to the country’s strategic objectives,</li> <li>• the effectiveness of their results, and</li> <li>• the sustainability of the results</li> </ul>	<p style="text-align: center;"><b>Absent</b></p> <p>The monitoring system in Resolution №153 calls for regular reports from TA project and program executors to MinEcon.</p> <p>The data in these monitoring reports collected by the Ministry are neither analyzed nor evaluated (no such procedure). There is no aid monitoring and evaluation system as understood by the EC.</p> <p>A system for monitoring budget support programs is currently in the process of being developed</p>

The evaluation of the current foreign aid management system in Ukraine shows that, for the effective drawing and utilization of aid, especially such as budget support, needs considerable, immediate changes. A possible system that might correspond to the requirements of this “new context” is provided in Chart 2.

**Chart 2. Possible foreign aid management system**



### Strategic Level 1

To ensure the necessary strategic planning system of both national priorities and foreign aid priorities, a **National Coordinator of [all] foreign aid** is needed. This post can go to the Deputy Prime Minister for European and International Integration.

**Benefits:** All processes for coordinating foreign aid are combined in a single center, foreign aid is managed at a high political level with a direct link to the Prime Minister, and a larger number of mechanisms for agreeing issues is available.

**The functions of the NC include:**

- Overall coordination of the drawing and utilization of foreign aid (international technical and financial assistance), including establishing strate-

gic priorities and agreeing them with the country's strategic development priorities;

- The Government of Ukraine's "one-stop-shop" for the donor community;
- Reporting to the Prime Minister, President and Verkhovna Rada regarding the receipt and utilization of foreign aid funds.

**Changes needed:** Drafting a Presidential Decree "**On the system of foreign aid coordination in Ukraine**" containing Provisions regarding a National Coordinator of foreign aid, and the above-mentioned system, **along with amendments to current normative and legislative acts** that regulate various aspects of foreign aid in Ukraine.

## *Strategic Level 2 and Operational Level 1*

To support the work of the National Coordinator, it is necessary to establish a National Coordination Unit (NCU). The NCU should report directly to the National Coordinator. The NCU should be given status that is higher than the ministries. In case of changes to the status and functions of the Coordination Bureau for European and Euroatlantic Integration (see Section 1 of this report), the Bureau can take on itself the role of the NCU. In this case, the head of the CB will also function as the Deputy National Coordinator and the director of the NCU.

The **functions of the NCU** include:

### **Strategic level:**

- Coordinating donor activities (strategic planning, agreeing positions and controversial issues);
- Preparing draft strategies for drawing aid under the direction of the NC;

### **Operational level:**

- Coordinating the process of executing the strategy (with donors and ministries)
  - Budget support;
  - Technical assistance;
  - IFI funds.
- Monitoring and evaluating the execution of the strategy:
  - Budget support;
  - Technical assistance;
  - IFI funds.
- Preparing the NC for meetings with donors;
- Regular reporting to the NC.

**Changes needed:** The role/functions of the Bureau as the NCU need to be enshrined in a new Presidential Decree "On the system of foreign aid coordination in Ukraine," and changes instituted to the Provisions on the Bureau (more about the mechanisms in the next Section).

## *Operational Level 2*

The main objective of the second operational level is **financial management**. A central executive body needs to be designated for the purpose, e.g. the Ministry of Finance of Ukraine. This level is new and will become available as opportunities to draw budget support from donors arise. This CEB will be part of the system for managing foreign aid. A Deputy Minister of Finance may be appointed a deputy to NC.

At this level, the tasks of **registering and gathering information** regarding aid projects and programs remains, both TA and budget support. The Ministry of Economy can continue to carry out this function and will also report to the NC and NCU.

The Main Department of Civil Service, which currently coordinates the involvement and execution of programs and projects under various EU instruments, can continue to carry out this function. The MDSC will also report to the NC and NCU on this issue.

**Changes needed:** The role and functions of the Ministry of Finance, the Ministry of Economy and the Main Department of Civil Service need to be reflected in the new Presidential Decree "On the system of foreign aid coordination in Ukraine."

## *Operational Level 3*

At this level, there needs to be operational activity, that is, the direct execution of foreign aid projects and programs. In each ministry there should be "unit for the implementation of foreign aid projects and programs." This becomes particularly important when a ministry obtains budget support to carry out sectoral strategies or programs.

### **Functions:**

- participate in planning, designating and formulating programs and projects based on agreed sector development priorities;
- prepare technical documents for the launch of programs/projects under the management of the NCU (developing ToRs, specifications, etc.);
- monitor the execution of projects, including the participation of a representative of this unit in the Joint Monitoring Group, and report to the

NCU on the progress of projects and programs, both TA and budget support;

**Changes needed:** The new Presidential Decree “On the system of foreign aid coordination in Ukraine” should include changes to the provisions regarding ministries.

# Possible mechanisms for aid coordination

Should a new institutional system for foreign aid coordination be established as proposed in the previous section, it will be necessary to arrange new mechanisms for the functioning of this system. Firstly, there needs to be a mechanism for interaction between the first and second strategic levels. Secondly, and no less importantly, there needs to be a working mechanism for interaction between the strategic and operational levels.

To determine the best mechanisms for interaction, this section looks at four existing and new mechanisms:

1. Orders of the Deputy Prime Minister for European and International Integration (DPM);
2. A Government Committee on European Integration and International Cooperation;
3. The Ukrainian Part of the EU – Ukraine Cooperation Committee (UPC);
4. Coordination Council on foreign aid (CC).

In Table 2 a detailed evaluation of each mechanism is provided regarding their effectiveness at all levels of drawing and utilizing aid.

**Table 2.** *Evaluation of possible mechanisms for interaction between strategic and operational levels for aid coordination*

Criteria	DPM orders	GC	UPC	CC (CB/NCU Secretariat)
Strategic planning	Temporary orders might work for specific issues, but an operational strategic planning system requires a working system, not occasional interventions. Should the Government change (and therefore political priorities), foreign aid could once again fall outside the focus of political leadership	<p>A GC is a working collegial body of the Cabinet of Ministers that is set up to help the CMU effectively do its work by reviewing draft bills and other acts, concepts, main areas of public policy, and other documents submitted to the Cabinet.</p> <p>The issue of strategic planning of aid could be raised for discussion at a GC session. However, this mechanism is only useful to discuss the final version of a strategy for drawing aid, but not in the actual process of strategic planning</p>	This allows the issue of iforeign aid to be thoroughly dealt with at monthly sessions (the UPC chair sets the agenda). However, the UPC is only competent to deal with EU technical assistance intended to increase capacity on the Ukrainian side to carry out the Provisions of the PCA. This leaves out the issue of budget support, aid from non-EU countries, and IFI	Strategic issues regarding all forms of foreign aid can be raised at Coordination Council's sessions. Operational activity (preparing strategic documents) needs to be handled by a separate unit that reports to the National Coordinator (in this case, the NCU)
Financial planning	A separate order can commit the Finance Ministry to draft a Cabinet Resolution or Instruction to plan foreign aid funds (budget support) during the drafting of the State Budget	<p>The issue of financial planning of the State Budget does not fall within the competence of this mechanism</p>	<p>The issue of financial planning related to the State Budget does not fall within the competence of UPC.</p> <p>The UPC may recommend through a protocol that the Ministry of Finance take into account possible budget support funds in its calculations</p>	During the drafting of the State Budget, the CC may recommend that the Ministry of Finance include potential budget support funds in its calculations
<i>None of the proposed mechanisms can resolve issues of financial planning at a systemic level</i>				

Criteria	DPM orders	GC	UPC	CC (CB/NCU Secretariat)
Transparent financial management	<p>Orders have no direct impact, although they can be used to draw the attention of interested bodies to the process of improving the public finance system</p> <p><i>None of the proposed mechanisms can resolve problems with public financial management at a systemic level</i></p>	<p>The question of public financial management does not fall within the competence of this Committee</p>	<p>The question of public financial management does not fall within the competence of the UPC, although it can offer specific recommendations for improving this system</p>	<p>The CC can offer specific recommendations for improving this system</p>
Donor coordination	<p>A one-time order could revive the Donor-Government Working Groups and their activity could be supported with further one-time orders, but the capacity of the Ministry of Economy to effectively function as a coordinator of these Groups is not clear. Should the Government change, the issue of donor coordination could once more drop off the Cabinet agenda</p>	<p>At the strategic level, the issue of donor coordination can be raised at the GC. This could be a "one-time" event and relate to the discussion of a document being prepared for Cabinet approval (such as an agreement with a specific donor).</p> <p>Still, for ongoing work, the Donor-Government Working Groups need a different mechanism. This could be either one-time orders from the DPM or a new Subcommittee or Working group within the GC that is coordinated by the secretary, who must be from the CB or NCU. The GC secretary is appointed by the Minister of the Cabinet of Ministers and generally comes from an internal Cabinet structure that deals with organizational matters</p>	<p>At the strategic level, the issue of donor coordination can be raised at a UPC session. The UPC can also commit individual CEBs to revive the Donor-Government Working Groups via a protocol. At subsequent sessions, the UPC could hear reports on the activities of these groups, but the issue of who will actually carry out any assignment remains up in the air. The Ministry of Economy currently lacks this capacity</p>	<p>At the strategic level, the issue of donor coordination can be raised at a Council session. The Council can then issue a protocol to have the Donor-Government Working Groups revived, whose activities will further be coordinated by the CB/NCU on a regular basis</p>

Criteria	DPM orders	GC	UPC	CC (CB/NCU Secretariat)
Horizontal aid coordination in three areas	A one-time order can be issued to form three working groups covering aid, such as budget support, and IFI aid (the CB/NCU will be responsible for management). If necessary (based on a report from the CB/NCU director), the activities of these groups might be directed through individual orders, but this work will not be systematic	Could be used to agree positions, resolve problems and discuss ministries' proposals. However, to support this process, changes are needed at the operational level. Preparations to discuss aid issues at GC sessions could be directed by individual orders from DPM or through a new Subcommittee or Working group within the GC	Could be used to agree positions, resolve problems and discuss ministries' proposals at the strategic or operational levels. Using UPC protocols, which are binding, would be effective enough. But to ensure operational activities, there has to be a Subcommittee for foreign aid under the UPC. The secretary of this Subcommittee could be the CB/NCU director or deputy director. This will allow horizontal coordination, monitoring and evaluation of aid drawing and utilization. But the combination of all three forms of aid is questionable, as it is not clear how empowered a UPC Subcommittee would be to coordinate these areas if the UPC itself is responsible only for EU issues	Could be used to agree positions, resolve problems and discuss ministries' proposals at the strategic or operational levels. Council protocols, which are binding, will be effective enough, while the CB/NCU can handle the operational activities of the CC
Monitoring and evaluating aid	Individual DPM orders can be issued to require the Ministry of Economy to monitor. But to institute a system of evaluating the effectiveness of aid, different mechanisms are needed. This particular mechanism could be more-or-less effective if there were established procedures and mechanisms for monitoring and evaluating	The GC is not authorized to monitor and evaluate. At GC sessions, specific issues regarding the execution of aid programs and projects can be raised. But at the operational level additional mechanisms are needed, such as individual orders from DPM or a new Subcommittee or Working group within the GC	The CB/NCU could function as a new subcommittee on foreign aid	The CB/NCU would monitor drawing and utilization of aid with the help of instruments similar to those of UPC. Still, to evaluate aid, a new procedure is needed

Criteria	DPM orders	GC	UPC	CC (CB/NCU Secretariat)
Impact on entire aid coordination system	<p>The most widely practiced. Does not require legislative changes.</p> <p>Allows specific issues to be dealt with, but strategic issues and issues that require immediate handling could fall beyond the DPM's focus.</p> <p>The current aid coordination system would remain unchanged.</p> <p>With a change of Government, the question of foreign aid could once again fall outside the focus of political leadership</p>	<p>Operates under the current Cabinet of Ministers.</p> <p>Does not require legislative changes.</p> <p>Allows specific issues to be dealt with, but strategic issues and issues that require immediate handling could fall beyond the DPM's focus.</p> <p>The current aid coordination system would remain virtually unchanged</p>	<p>Started meeting regularly only in 2008.</p> <p>Requires changes to legislation to extend the powers of the UPC to cover all forms of aid, and to establish a separate subcommittee and designate the CB/NCU responsible for it.</p> <p>This mechanism could revive the system provided that a separate subcommittee is formed and run by the CB/NCU (with the necessary changes to the Provisions on the CB)</p>	<p>Could be based on the Coordination Council for Adaptation as model.</p> <p>The NC for all aid can chair this Council, while the CB/NCU function as its secretariat.</p> <p>Requires that a suitable Cabinet Resolution be drawn up with additional changes to a slew of legislative and normative acts.</p> <p>This mechanism could revive the system by consolidating the three forms of aid, regularly reviewing strategic issues at Council sessions, and operational issues through the CB/NCU</p>

The evaluation illustrates how the first and second mechanisms are completely unworkable from the point of view of instituting a new system of aid coordination. The third and fourth mechanisms are more effective, as shown by the comparison in Table 3 here.

**Table 3. Comparative analysis of mechanisms**

Criteria	UPC	CC
	<b>Minor</b>	<b>Major</b>
<b>Legislative changes</b>	Changes to the current Provision on the UPC in the section on setting up a subcommittee on foreign aid	Drafting a new CMU Resolution to confirm a Provision on the Coordination Council
	<b>Major</b>	<b>Major</b>
<b>Institutional changes</b>	The Coordination Bureau already functions as a secretariat to the UPC but the Provision on the CB needs considerable changes regarding interaction between the CB and other government bodies (procedure for monitoring and evaluation, and so on)	In addition to designating the head of the CB secretary of the Coordination Council, a separate unit in the CB needs to be set up
	<b>May need additional funding</b>	<b>May need additional funding</b>
<b>Impact for State Body</b>	Still, the issue of funding can be dropped if the CB is reorganized	Still, the issue of funding can be dropped if the CB is reorganized
<b>Timeframe</b>	<b>Little</b>	<b>2-5 months</b>
<b>Impact at strategic level</b>	<b>Considerable</b>	<b>Considerable</b>
	<b>Considerable</b>	<b>Considerable</b>
<b>Impact at operational level</b>	Provided that a subcommittee is formed and the CB is its chair	Provided that CB is responsible for Coordination Council
	<b>Considerable</b>	<b>Considerable</b>
<b>Risks</b>	Consolidating the three forms of aid at one center could be problematic, given the UPC's focus on EU aid.  The issue of foreign aid might not get the necessary attention or remain just one of the UPC's many issues	The issue of foreign aid is distanced from the process of strategic reform planning (foreign aid continues to run in a parallel dimension).  CB might not have the capacity to function as a secretariat to the Coordination Council until the reform of the Bureau is complete (see Section 1)

The ultimate decision as to what mechanism is the best needs to be taken at a high political level.

# Conclusions and recommendations

The requirements of the “new context” for the granting of foreign aid in general and the use of budget support in particular cannot be effectively fulfilled in the context of the current legislative base and an outdated institutional system. Should Ukraine preserve *status quo*, the country will continue to lose opportunities to gain additional resources to carry out reforms. Under the current financial and economic crisis, this is particularly critical. If the Government continues to be ineffectual, or takes only “baby steps,” Ukraine’s image will be further weakened and the country risks completely losing the trust of donors.

The analysis we presented in the previous sections of this report makes it clear that **a qualitatively new system of managing foreign aid urgently needs to be established**. The three main areas of aid—technical assistance, budget support and IFIs aid—can finally be consolidated into a single center at a high political level. At the same time, **budget support should become the main focus of the Government’s efforts**, especially since donors are actively switching to this instrument. In 2008 – 2009 alone, plans are to grant Ukraine nearly EUR 232mn in sectoral budget support from the EU.

For this, Ukraine needs to take the **following steps**:

- Establish the post of **National Coordinator of foreign aid at a high political level**, such as the level of Deputy Prime Minister. This is a politically sensitive issue and could require a fair bit of time to establish consensus between the Cabinet and the President. Still, without this step, it will be impossible to talk about effectively drawing on foreign aid at all.
- Develop and approve a **normative document for a system and mechanisms to draw and utilize foreign aid** in Ukraine. Its provisions should be confirmed by Presidential Decree and accompanied by appropriate changes to existing legislation. This step is closely tied to the previous one and could also require some time to find consensus. Still, this document is very important for aid to be effective. Firstly, it will make it possible to remove the mess in the legislative base regarding foreign aid. Secondly, it will consolidate the three areas of foreign aid in a single center and launch a qualitatively new system and mechanisms for managing aid.
- Establish a **National Coordination Unit (NCU)**, whose role could be undertaken by the Coordination Bureau for European and Euroatlantic Integration, and support the work of the National Coordinator and a functional system. However, this step should be supported by a serious reform of the Bureau.

- **The coordination system should be split into two levels: strategic and operational:**
  - The National Coordinator will be responsible for the first strategic level
  - The NCU for the second strategic and first operational levels
  - The Ministry of Finance (that will receive additional role and competences), Ministry of Economy and Main Department of Civil Service for the second operational level
  - The ministries for the third operational level.
- To get such a system up and running, **establish a mechanism** that will make it possible to interact the most effectively between strategic and operational levels. The most acceptable mechanism at this time is the Ukrainian Part of the EU–Ukraine Cooperation Committee (UPC)—albeit with certain changes.
- **Develop and institute separate procedures in managing aid.** Today, these are missing in Government practice, such as strategic planning and performance evaluation.

# Addendum 1: Detailed Examples

## *Example 1: The Office of the Prime Minister of Ukraine*

This coordinating body is interesting in that, despite its ancillary status, it is in fact an influential organ with clearly designated coordinating and monitoring functions. A look at its Provisions provides an orientation as to how best to lay out the objectives and functions of the Coordination Bureau so that, despite playing an ancillary role, it will nevertheless have the powers and the grounds to effectively work towards its objectives.

**Subordination:** The apparatus of the Prime Minister is ancillary to the Secretariat of the Cabinet of Minister of Ukraine and reports directly to the Prime Minister.

**Appointment of director:** The director of this office is appointed to and dismissed from this post by the Cabinet of Ministers at the request of the Prime Minister. The director is personally responsible to the Prime Minister of Ukraine for the objectives delegated to the Office. The director submits proposals for Cabinet approval regarding a First Deputy and Deputy Directors, and for the directors of the Bureau's departments.

**Formulation of objectives and functions:** The main purpose of this Office is to support the Prime Minister of Ukraine to exercise the powers of office granted by the Constitution and the laws of Ukraine. Moreover, the formulation of objectives is clear and unambiguous, as the Office is expected to work towards four objectives in carrying out its ancillary functions:

- monitor and analyze the effectiveness of the Cabinet of Minister's of Ukraine's policies in the economic, social and other spheres and to prepare a report on its results for the Prime Minister. This report is to contain conclusions and recommendations on how to further develop Government policy, including based on propositions submitted by Members of the CMU;
- analyze decisions made by the Cabinet of Ministers, and other documents that are given to the Prime Minister for signature, for their compliance with the Government's declared policies and their impact on the political situation in the country and forecast possible reactions from different social groups. Where necessary, to prepare appropriate propositions;
- participate in the drafting of normative and legislative acts on issues that are brought by the Prime Minister for review in the Cabinet of Ministers of Ukraine;

- undertake expert reviews of draft documents submitted to the Prime Minister for signature; prepare appropriate propositions.

**Structure and confirmation of staff:** The staffing of the Office is approved by the Cabinet of Ministers. The ceiling on the number of employees in the Office is approved by the Cabinet of Ministers at the request of the Prime Minister of Ukraine, based on a proposal submitted by the director of the Office after being agreed with the Minister of the CMU, and within the limitations on the number of employees in the Secretariat of the Cabinet of Ministers of Ukraine.

**Status as legal entity:** This Office does not have status as a legal entity.

The Provision on the Office of the Prime Minister is an example of how immediate coordinating and monitoring functions can be written up for an ancillary body, in the system of the Secretariat of the Cabinet of Ministers in this case. The context of supporting the work of the Prime Minister provides both a powerful instrument for limiting its powers and, at the same time, a good "excuse" and persuasive argument for these direct functions to be carried out at a high level of government. Moreover, the personal responsibility of the director for reaching the objectives placed with this Office is clearly fixed, which is a strong motivating factor.

Four points are worth noting in analyzing the actual Provision on the Office of the Prime Minister: being directly subordinate to the Prime Minister; the right to actively participating in the policy-making process and the drafting of policy, which is enshrined in the functions and objectives (again, within the context of supporting the Prime Minister's work); the right to draft normative and legislative acts; the right to analyze the effectiveness of policies of the Cabinet of Ministers of Ukraine in various spheres.

### *Example 2: National Agency of Ukraine for Development and European Integration (NAUDEI)*

Because this Agency was set up to<sup>18</sup> coordinate inter-sectoral economic matters and social cooperation between Ukraine and the European Communities (European Union), the Provisions of this coordinating body were chosen for more detailed study.

**Subordination and status:** This is a central executive body (CEB) subordinated to the Cabinet of Ministers of Ukraine. It has the status of a Ministry.

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<sup>18</sup> Coordination was not its only function. The agency: participated in the formation and implementation of public policy in interaction with international financial institutions; oversaw the proper use of the financial resources provided; coordinated the work of the executive branch and businesses in this area.

The Agency also has status as legal entity, its own bookkeeping, accounts in the bank, and a stamp with the Coat of Arms of Ukraine and its name on it. Moreover, the Agency has the right—obviously, within the limits of its competencies—to issue decrees, and to organize and monitor their enactment.

NAUDEI also has the right to:

- at its request, represent the Cabinet of Ministries of Ukraine with international organizations and during the signing of international agreements with Ukraine;
- submit, in the established order, propositions for how to organize the work of the Ukrainian side of the Committee on cooperation between Ukraine and the European Union;
- engage, in the established order, specialists from various Ministries, other executive bodies, enterprises, institutions and organizations to review issues that lie within the Agency's competence;
- engage, on a contractual basis, both domestic and foreign scholars, specialists and experts to consult on issues related to the activity of the National Agency.

**Appointment of director:** The director of NAUDEI is a Minister appointed by the President of Ukraine. The Agency's director is responsible for running it and answerable to the President and Cabinet of Ministers for carrying out the tasks assigned to the Agency.

**Formulation of objectives and functions:** One of the main objectives of the Agency is to handle interagency coordination on issues related to inter-branch economic and social cooperation between Ukraine and the European Union. Moreover, the Agency's scope of responsibility includes the development and implementation of programs and international technical assistance projects, their registration, and oversight over their performance.

One important point is that the Agency functions as an active "player" on the strategic level in terms of Ukraine's socio-economic development. According to its Provision, the Agency:

- participates in ensuring that state programs are carried out, in putting together Ukraine's balance of payments;
- participates in developing draft State Budgets of Ukraine, and national socio-economic development programs;
- ensures, within the limits of its competence, that the Ukrainian side carries out its commitments under the Partnership and Cooperation Agreement between Ukraine and the European Communities (European Union);
- drafts propositions on how to improve the mechanisms for interaction between the Cabinet of Ministers of Ukraine, the Ministries and other central executive bodies with the European Communities (European Union).

**Structure and confirmation of staff:** The structure of the Agency's main office is approved by the Prime Minister of Ukraine. The list of personnel at the Agency and the provision on its division into departments are decided by the Director of the Agency. To reach consensus about issues that fall within the competence of the National Agency and to discuss key areas of activities, the National Agency forms a board consisting of the Director, his deputies and other managers at the National Agency. Managers from other central executive bodies may also join this board. The staffing of the collegium is approved by the Cabinet of Ministers of Ukraine. Decisions made by this board are enacted through decrees issued by the National Agency.

In this instance, the Agency's strategic coordinating functions were enshrined and reflected in its status as a CEB, powers, objectives and functions. Equally important is the function of coordinating international technical assistance (ITA) handled by the Agency. In this instance, all of Ukraine's strategic socio-economic development goals were taken as the basis in preparing ITA programs and projects. This is one of the key points in effective implementation and in the impact of ITA on reforms in Ukraine.

### *Example 3: The State Department for the Adaptation of Legislation*

Analyzing the provisions of this government organ is interesting in that, while part of the Ministry of Justice, this Department is a legal entity and carries out strategic coordinating functions tied to the adaptation of legislation to the European Union's. Moreover, its Eurointegration aspects make it worth looking closer at this organ.

**Subordination and status:** The State Department for the Adaptation of Legislation is a Government administrative organ that operates within the Ministry of Justice and is subordinate to it. The Department is supported by the State Budget as part of the funds allocated for the Ministry itself. The Department is a legal entity with its own budget, accounts at the State Treasury, and a stamp with the State Coat of Arms and its name on it.

The Department has the right to:

- engage, with the approval of their superiors, specialists from central and local executive bodies, local governments, enterprises, institutions and organizations to review issues that fall within its competence;
- receive information necessary to carry out its tasks from central and local executive bodies, local governments, enterprises, institutions and organizations, in the established order;
- call meetings on issues that lie within its competence, in the established order;

- organize and run seminars, conferences, symposia, and other events on issues the lie within its competence;
- set up expert and advisory councils and working groups;
- issue decrees of an organizational and instructional nature.

**Appointment of director:** The Department is run by a director who is appointed to and dismissed from the post by the CMU at the request of the Minister of Justice, in the established order. The Department Director is a member of the collegial body of the Justice Ministry. The Director has a First Deputy and two Deputies, who are all appointed to their posts and dismissed from them by the CMU at the request of the Minister of Justice, with the agreement of the Director of the Department. The division of responsibilities among the Director's deputies is determined by the Director of the Department.

**Formulation of objectives and functions:** The Department's main objectives are:

- organizing the carrying out of public policy in the adaptation of Ukraine's legislation to the legislation of the EU;
- participating, within its competence, in coordinating efforts tied with carrying out the National Program for adapting Ukrainian laws to EU laws;
- tracking the enactment of Ukraine's laws, drafts of which have been written in compliance with the *acquis communautaire*;
- coordinating, within its competence, cooperation between Ukraine and the European Union in the adaptation of Ukraine's legislation to European Union legislation and in the sphere of justice, freedom and security, and on issues related to maintaining stability and effectiveness among institutions that guarantee democracy, the rule of law, and the upholding of human rights;
- coordinating and monitoring, within its competence, the work of central executive bodies in carrying out commitments taken on by Ukraine before the European Union, the Council of Europe, and other international organizations related to maintaining stability and effectiveness among institutions that guarantee democracy, the rule of law, and the upholding of human rights.

**Structure and confirmation of staff:** The division of duties among the Director's deputies is handled by the Director of the Department. The ceiling for staffing in the Department is set by the Minister of Justice at the request of the Director. The structure of the Department itself is approved by the Director with the agreement of the Minister. The staff list and Department budget is approved by the Director with the agreement of the Minister of Justice and the Finance Ministry.

Note: The combination of legal status and its own financial resources, together with clearly defined primary coordinating functions make this Department

a working Government structure. In effect, this is an example of an entity whose level of powers allows it to function effectively.

#### *Example 4: The State Financial Services Markets Regulatory Commission*

The Provision of this Commission is interesting from the point of view of both how to write up functions and how to define the strategic role in regulating financial services markets through the objectives.

**Subordination and status:** The State Financial Services Markets Regulatory Commission of Ukraine is a central executive body with special status. The Commission is a legal entity with its own budget, accounts in the State Treasury, and a stamp with the National Coat of Arms and its name.

**Appointment of director:** The Commission is run by the Chair of the Commission, who is appointed to the post for a period of seven years, as well as dismissed, by the President of Ukraine. The Commission Chair is personally responsible to the President of Ukraine for the Commission's work.

**Formulation of objectives and functions:** The Commission's main objectives, within its competencies, are:

- carrying out consolidated, workable public policy in the financial services field;
- developing and undertaking a development strategy for the financial services market;
- undertaking state regulation and oversight of the provision of financial services and the upholding of legislation in this field;
- protecting the rights of consumers of financial services by applying measures to prevent and stop violations of the law on the financial services market;
- generalizing practice in applying legislation in Ukraine regarding the functioning of financial services markets, developing and submitting propositions on how to improve such legislation;
- instituting internationally recognized rules for developing financial services markets;
- promoting integration into European and world financial services markets.

What is important is that such functions as participating in the forming of the CMU's Action Program and in developing drafts of national socio-economic development programs and the State Budget Law of Ukraine for the relevant year all demonstrate that the Commission has real powers at the strategic political level to develop public policy.

**Structure and confirmation of staff:** The Commission Chair approves the structure of the Commission's central office with the agreement of the CMU. As a collegial body, the Commission consists of nine members: the Chair, three Deputy Chairs, including a First Deputy Chair, and five members of the Commission: these are directors of departments. The structure of the central office of the Commission consists of departments and their subdepartments, which handle the regulation of financial services markets and oversight of specific types of financial institutions and provide organizational and logistical support for the Commission's work. The territorial offices of the Commission do not have legal status and operate according to provisions approved by the Commission.

In effect, the set of objectives that have been assigned to the Commission are enshrined by actual powers to formulate policy in this particular sphere, to develop and carry out a development strategy, to evaluate and monitor, and to prepare propositions as to how to improve the financial services market. Understandably, in this case, the status of a CEB makes it possible to formulate primary functions. This "dual" status and the strategic level of the Commission's activities, which are all defined in the objectives and functions, could be useful in writing up the Provision for a renewed Coordination Bureau.