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THE CONDITIONALITY POLICY OF THE EU IN THE TERMS OF REFORMING THE PUBLIC SERVICE IN THE CEE COUNTRIES: THE EXPERIENCE OF UKRAINE

Abstract: With the aim of creating in Ukraine a civil service that is based on European values and principles, the priority must always be the rule of law; patriotism and the service for Ukrainian people; legality; equal access to public service; professionalism; virtue; political impartiality; transparency of activities; personal responsibility of a civil servant. Only respecting the above-mentioned European principles for the process of adaptation of civil service of Ukraine to EU standards will be held smoothly and successfully.

Keywords: policy conditionality in the EU; the public service; Europeization; administrative reform; the EU standards.

1. INTRODUCTION

Today, when the borders of the European Union (EU) expand, the question of «Europeanization» becomes relevant not only for the countries of the applicants, but also for all European member states. As the political realities evidenced today, the EU countries-candidates for membership puts high requirements, with the aim of selection of the Community «family» of the future «ideal members» (Shimmelfennih & Zedelmaier, 2010) Eastern and Central European countries have to overcome the difficulty of restruc-

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turing administrative decisions, principles and legal norms to prepare to enter EU finally. Ukraine would have to follow their example to join EU. In May 2004, these difficulties were overcome, and at the same time the preparation of these States to join the European Union was completed and the separate and integral aspect of Europeanization was the reform of public service.

For Ukraine the process of interaction with the EU provides a number of requirements. First of all that is a cornerstone of European integration course of our country, a creation of a consistent and stable legislative ground according to the Copenhagen criteria for membership in each of the spheres of public life, and particularly the adaptation of public service to the EU standards.

The necessity of reforming the state service of Ukraine in terms of processes of Europeanization and what is especially important for our country is taking into account the future prospects of integration of the EU, and considering the need to reduce bureaucratic tendencies and overcoming corruption in the system of state power. The key problem is the adaptation of the Ukrainian legislation of public service, which is nowadays so fundamentally different from the standards of the developed European countries.

To find the ways to solve this urgent problem, one must implement a comprehensive and structural analysis of normative legal conditionality organization of the state service of the States of Europe to develop the foundations for further reform in the governmental sphere and implementation of positive European experience in Ukraine.

2. METHODOLOGY

These issues were addressed in the writings of both local and foreign scientists. However, the lack of a comprehensive study of this problem only aggravates it, and also makes impossible the implementation of reforms in management sphere of Ukraine at the proper level. It is expedient to consider the modern research of Russian scientists in this field. For example M.M.Vojtsechovskyy (Voitsekhovskiy, 2014, May 17) raises the problem of the modern state and the main directions of reforming the state service of Ukraine. In particular, it draws on existing laws of Ukraine, namely: the Law of Ukraine «About state service» from 17.11.2011, and «On state target program of development of public service in Ukraine» dated 27.06.2012 № 411-p. Such scientists as K. Zajachkovskyy, I. Todorov (Zaiachkovski & Todorov, 2014, May 16) cover the issues of state service in Ukraine and in accordance with the standards of leading European States.

The most valuable in our opinion is the research done by A. L. Dimitrova (Shimmelfennih & Zedelmaier, 2010), having considered the reform of public service in the countries of CEE in the context of Europeanization. In addition, M.A. Vakhudova (Vachudova, 2014, May 20) explored how the EU's leverage facilitated the convergence of the likely future EU members from CEE on the grounds of liberal democracy. At the same time there is also the contribution of the Franco Shimmelfening (Shimmelfennih & Zedelmaier, 2010) in the study of the process of Europeanization of States as a whole.

What should be noted is the absence of the complex research on the use of Ukraine's most valuable specific experience of CEE countries for the implementation of successful and effective reforms in the public service of our state in terms of its civilization choice that validates the study of the issues that have been discussed.

Therefore, in our opinion, the focus should be on such States of Central and Eastern Europe, which can be an example for Ukraine and that have implemented reforms in the management sphere. These are the following: Bulgaria, Czech Republic, Romania, Hungary, Latvia, Lithuania, Estonia, Poland, Slovakia and others. All the above-mentioned States agreed with the proposed EU rules and have conducted its own estimates of the advantages and disadvantages of EU membership.

3. RESULTS AND DISCUSSION

The basic standards of civil service of European countries was mostly recorded in the Constitutions as well as in specially adopted specific legal acts. The experience of the EU in relation with the regulatory management sphere is based on certain principles, and some of them have the highest priority: the rule of law, legality, political neutrality and loyalty, stability, transparency, responsibility.

The reform of the apparatus of the state service was assumed with the help of integration strategies of the States of the applicants. Therefore, a dominant role in the success of the administrative reform in a particular state has played in fact the probability of its accession to the EU. In addition, an integral component of the «Europeanization» in the solution of some questions had the agreement, loyalty, unanimity in domestic forces, in particular, a relatively significant range of issues in the governmental sphere, among them it should be allocated to the stability of democratic institutions, to overcome obstacles to democratic processes, avoiding war, human rights, etc. First of all, the EU required from States applicants implementation of requirements in the sphere of human rights and democratic principles. More specifically, it tells you, in particular, Agreements on trade and cooperation with the Baltic States and the Association Treaty with Bulgaria and Romania (1992-1993) (Shimmelfennih & Zedelmaier, 2010).

The attention needs to be focused on the fact that; firstly, in the EU practice there were no criteria in the implementation of reforms in the management area. So, we mean that the specific conditions concerning the administrative reform of EU officials have formed much later, namely in the process of expanding and complementing with then existent Copenhagen criteria. Therefore, the criteria regarding the implementation of the reform of public service has appeared not at once, and went through several stages (Shimmelfennih & Zedelmaier, 2010). During the first period (1989 – 1993) the Consolidation was based on the experience of international organizations. The main requirement of that time from the EU side, first of all, was the observance of democratic principles by the membership applicants and basic human rights. A key achievement of the first period should be considered as the Copenhagen membership criteria fixed by the Copenhagen European Council summit in 1993. EU policy in the second stage (1993 – 1997) was focused not so much on democratic reforms and human rights, but rather on the criteria regarding the common market and its potential implementation of the post-Communist States. Consequently, the economic acquis of the EU were outlined at the Essen European Council in 1994. The most outstanding point of this strategy was that the candidate countries had to go through training before they participate in the training before becoming an actor on the market. This fact was recorded in the White book of the European Commission on the General market, approved at the Cannes European Council summit. And last, the third period (1997-2002)

for states of the applicants was difficult. The main emphasis in monitoring the reform was put on the European Commission, which assessed the progress of the candidates in the annual Regular reports. However, the Commission has determined for countries-candidates goals in Partnership in preparation for EU accession. The priority place in the annual reports of the European Commission was given to administrative and judicial reforms. So, the criteria in the sphere of state management as an integral component of the policy of EU enlargement for the first time appeared in the 1995 in Madrid summit of the European Council, but were not implemented. It starts in 1997 and since that time its influence was spread (Shimmelfennih & Zedelmaier, 2010).

In the sphere of reforming of public service, the European Commission has requested SIGMA (Yevropeiskioriientyry u rozbudoviderzhavnosluzhby. SIGMA, 2014) group to develop separate criteria of the States-candidates. We need to bear in mind that the SIGMA program is one of the most prestigious analytical companies of EU that was created on the initiative of the Organization for economic cooperation and development (OECD) and the European Union. The purpose of the program was the need to assist States in Central and Eastern Europe to modernize their systems of public administration. This program plays a key role in the preparation of candidate countries for EU accession. In particular, the program SIGMA has contributed to the implementation of the program «the best» public administration, which would allow to increase efficiency of administration and would stimulate the observance by the government of the democratic values, ethics and respect for the rule of law; helped in strengthening States' capacity at the Central level of control that should help the solution of the problems of globalization and to support integration plans of States; have supported initiatives of the EU in the reform of public administration (Yevropeiski oriientyry u rozbudovi derzhavnoi sluzhby. SIGMA, 2014).

The candidate countries during the implementation of internal reforms, in particular in the sphere of improvement and changes in their institutional structure, were confronted with the choice of the way of their implementation. Taking into consideration some peculiarities of the reform, all States meet the requirements and rules of the European Commission.

Of course, through the importance and complexity of implementing reforms of the public service, which was demanded by the EU, they do not always find a commitment in member candidates, namely in the management bodies of a state. However, all of them at the final stage of integration successfully completed the reform of the administrative sphere. So, in the countries of Central and Eastern Europe researchers trace certain characteristic features of such reform. In particular, we are talking about a small number of reforms, the lack of implementation of adopted laws in the initial stages (exceptions may include Estonia, Hungary and Poland). Therefore, while the EU insisted on speeding up administrative reform, however, the practical application is not found, and was not supported by concrete actions. Such pressure from the EU influenced the further implementation of reforms, the creation of States contenders own management structures practically «from zero» (Shimmelfennih & Zedelmaier, 2010).

The principles of Europeanization for each state had its peculiarities. Yes, reforms in Hungary, by its nature, have an internal origin with significant external influences. A different situation was observed in the Czech Republic, where significant resistance to reform was accompanied by delays in the reception of EU rules. However, this state, choosing its own way of reforming of the administrative sphere, held them, which is consistent with EU requirements. In Slovenia, the EU intensified influence on the elite of the state, thereby ac-

celerating the reform. Therefore, an important condition for European integration became the hardness and determination of the elites of the States-candidates because the weakness in implementing reforms was not perceived by the EU and was the main threat to European integration.

In general, characterizing the situation in the candidate countries of Central and Eastern Europe, changes in the public service were held for a short period. Candidate countries supported terms of reform although there was disagreement, even the resistance to the policy of conditionality in the EU.

The influence from the EU side was observed at the internal structure of the States-candidates. Only joint efforts, progress and reform were the key factors to their EU accession. The reforms of public service defined the requirements of the legislation, which must enter the public service in the countries of Central and Eastern Europe as an independent professional education and to protect civil servants against dismissal and political pressure.

So, the most important factor which caused the successful impact of the EU's leverage on the progress of reforms in individual member candidates was the performance of their governments. The reform of the state and economy is impossible without a dedicated politicians and skilled officials, and without pressure and assistance from these groups. The EU encouraged the reform of the state apparatus and the economy in all member candidates. The most important among the mechanisms stimulating reforms were conditionality, strong commitment and influence on these groups and elites. The government had to carry out reforms, with the aim of moving forward in the integration process. Additionally, this promotion has strengthened positions of the groups that benefited most from integration with the EU. Together, these mechanisms have contributed to the emergence of agreement among all leading political forces concerning the continuation that was focused on EU reforms in the state (Vachudova, 2014, May 20).

The civil service reform in the mentioned States should be considered as a whole in the context of the existence in these post-Communist administrations. The idea is that the state, which was integrated into the EU, having inherited this government, faced a number of problems of different nature. First, there was not «feeling» of the public service, because the difference between the «state service» and other employees of the government (including enterprises) was unclear. Secondly, the bureaucracy was rather not answerable to the citizens and parties. Third, workers were sensitive to political pressure and individually affected. And, the last, is that the public administration in general lacked the skills and information needed to participate in policy-making in the new world market democracy (Shimmelfennih & Zedelmaier, 2010).

Therefore, the public administration as it functioned in the previous system of state management was at best « the implementation machines» for making decisions, initiated by the Communist party, and at worst, a tool for repressing citizens of the state. Therefore, the concept of a professional civil service was operative in most states. So, in member candidates from CEE there was a whole range of problems in the sphere of public administrations. Among them, the researchers highlight the dominance of the Communist party, its penetration in the bureaucratic structures in CEE countries and dual subordination administrations, corruption and practical lack of responsibility. The administration was comprised of management structures and political ones, the latter of which was reflected in the value of HR policy. And actually the fact that the use of administration with the purpose of implementation of repression against the people questioned the legitimacy of any gov-

ernment agencies. You should therefore fully agree with the view that «the administrative reform in the CEE countries do not require anything other than defining a new concept of the state» (Shimmelfennih & Zedelmaier, 2010).

We should not overlook one more important moment in the context of reform of the public service of the member of the applicants, namely: the lack of legislation (except Poland) on the role of civil servants or public service during the Communist period (Shimmelfennih & Zedelmaier, 2010). Resorting to the analysis of the general picture on reforms in member of CEE, it is necessary to note the fact that the example of the states the reform of public administration was completed then included Hungary, Poland and Estonia. But other countries have adopted legislation on partial reform, but in these cases it was not about the effectiveness of implemented reforms, and their consistency with EU requirements (Shimmelfennih & Zedelmaier, 2010). In particular, certain laws of the state (public) service were adopted in Poland, Lithuania, Latvia, Estonia, Greece, Bulgaria, Hungary, etc. For example, in France there are the law «On the rights and duties of civil servants», «On constitutional provisions regarding the public service of the state» and the Decree about the features of some service of state employees state and some forms of final cessation of performance of official duties. Likewise in Germany, there was adopted the Federal law about the status of officials, and in the Czech Republic – the law «On service of public servants in administrative institutions, and on remuneration of civil servants and other employees in administrative institutions (Shimmelfennih & Zedelmaier, 2010).

Despite the differences in the titles of the above documents, their content is almost identical. They contain goals, tasks and principles of state service, the procedure for its completion, they define the status, rights and duties of civil servants, guaranteeing their legal and social protection.

The main problem of the civil service reform was the choice of the institutions responsible for this process. The experience of Slovakia and the Czech Republic offers two options. In the first case it is a separate agency. This institution, as a rule, was the core of future reforms in the public service, but it is difficult to establish the proper balance between the authority and accountability. They are strong and influential enough without any accountability or become too weak politically and financially. The latter is manifested in the Ministry of labor. In the mentioned states in particular, the attention is focused on the labor and social aspects of civil service reform at the expense of other reforms and far less than of the Ministry of internal Affairs, the Ministry of Labour was in contact with the lower levels of government (Voitsekhovskiy, 2014, May 17).

Indisputable is the fact that attempts at normative provision of the state service, today are being made in Ukraine. It is advisable to focus on the resolution of the Cabinet of Ministers of Ukraine «On approval of the State target program of civil service development for the period till 2016». In order to clarify the real situation in the sphere of public service it should be considered the main tasks of the State target program of development of civil service of Ukraine, among which were outlined the three key ones. First, it is improving the institutional framework of public services that is based on the competence approach, stipulated in the new edition of the law of Ukraine «About state service». Secondly, the introduction of a new system of human resources management in public service in the medium term. And, the last, in our opinion, the most relevant to the present day, is the formation of highly skilled personnel of the state service (Zaiachkovski & Todorov, 2014, May 16). Implementation of the State target program of development of civil service requires dra-

matic changes in connection with the application of a competence approach to all processes of HR management in civil service. This approach is present in the personnel policy of such powerful States in the international arena as the UK, Austria, Canada, USA, Germany, Netherlands, Australia. At the same time, in the process of developing this program one takes into consideration the achievements of the Ukrainian-Canadian project «Reform of personnel management in public service». In particular, we are talking about developed by the Canadian Bureau of education a «Strategic» frame relative to the system of personnel management in public service. In addition, during the development of the State target program of development of civil service also takes into account the recommendations of the experts of the Twinning project «support to the development of public service in Ukraine» (Zaiachkovski & Todorov, 2014, May 16). An important aspect of adaptation of civil service to European standards in the context of Europeanization is the process of forcing in Ukraine of such instruments of institutional development of the EU as Twinning and TaieX, in particular at the regional level. The main purpose of these instruments is practical assistance in solving specific problems of development and European integration. The effective use of the above mentioned tools provide operation of successful partnership on the one hand, and on another – will become a «bridge» exchange of experience between public authorities of Ukraine and the EU. The effectiveness of the reform of the state service of Ukraine will be determined by the method of assessment of the state service in Ukraine on the dominant figures of the software in a certain number of areas, the methodology of assessment which is characteristic for the administrative areas of the countries-EU applicants. Interesting and integral aspect of the implementation of the reform of the state service of Ukraine is a predictable amount of financial resources. According to official sources the funds aimed at reforming the administrative areas is 35 868, 4 thousand of UAH, due to means of the state budget – 927 23, 9 thousand of UAH in 2013-2016. In addition to financing, the implementation of the State target program envisages the involvement of international technical assistance projects in the sphere of public service, international partners, which will contribute to reforming in Ukraine. With the aim of creating in Ukraine a civil service that is based on European values and principles, the priority must always be the rule of law; patriotism and service to the Ukrainian people; legality; equal access to public service; professionalism; virtue; political impartiality; transparency; personal responsibility of the state the employee. Only if and respecting the above-mentioned European principles for the process of adaptation of civil service of Ukraine to EU standards it will be held smoothly and successfully.

So, it is safe to say that if the introduction of the main priorities provided by the State target program of development of state service will be reformed by civil service of Ukraine in specific terms, the conditions will be created for further improvement of state control with regard to democratic values and principles of management. At the same time, the implementation of the state policy in the sphere of civil service will provide an opportunity to introduce modern technologies of human resources management in public service with regard to the competence approach. In addition, the involvement of the scientific point of view in the process of reforming the civil service of Ukraine will ensure the implementation of state policy using the best international experience. And, last, monitoring the effectiveness and efficiency of the civil service reform will contribute to the creation of a professional and politically independent state service of Ukraine (Zaiachkovski & Todorov, 2014, May 16).

In the light of current events, it is necessary to point out the fact that the Europeanization of public service in Ukraine is permanently stalled. The factors of this negative trends in-

Ukraine, first of all, are the lack of political will, corruption, a kind of political system «reforms», which gives rise to the growing influence of the Soviet system. At the same time there's a systematic violation of human rights, which causes negative reviews about the political situation in Ukraine on the part of European institutions and official persons. Hence, we notice a clear gap between the weight of the value of the block in the eyes of leaders and EU officials, members of the European Parliament, on the one hand, and the authorities in Ukraine on the other (Zaiachkovski & Todorov, 2014, May 16).

Today it is expedient to briefly dwell on the forecasts of the experts concerning each state in CEE in the management area, which are presented in the Ukrainian edition of «The Economist» – «the World in 2014» (Svit u tsyfrakh, 2014). The first in the field of view gets Bulgaria, which predicts early elections in 2014, because the ruling Alliance of the Bulgarian socialist party and the Movement for rights and freedoms loses legitimacy both at home and abroad. For example, in the Czech Republic in 2013 has been the dissolution of the Parliament, in October 2013 the elections was held. The political turmoil of the state was associated with scandals related to corruption and wiretapping, but in 2014 they predict the end of recession. Similar situation is observed in Estonia, in which popular discontent has caused the loss of trust to politicians of different political spectrum after allegations of corruption. But before the election 2015 the government is unlikely to be changed.

It will be Croatia that will celebrate the first. However, improving government institutions and the weakening role of the state is not held by the «magic» (Svit u tsyfrakh, 2014). Therefore, according to forecasts, the current ruling coalition under the leadership of S. Milanovich will continue to fight corruption among officials. Stable situation is predicted for Hungary, Romania, Latvia and Poland (due to the political and personal aptitude of D. Tusk). But the internal political arena of Lithuania was unstable for alleged fraud in 2013, several leaders of the Party of labor, however, paradoxical as it seems, did not prevent the growth of the state's economy by 3%. And at the end forecasts for Slovenia are fuzzy because the state is still in the process of finding a «devoted politicians and skilled officials», without them the reform of domestic sphere of the state of the public service is impossible. In March 2014, they scheduled the vote on taking confidence, which can cause extraordinary elections (Svit u tsyfrakh, 2014).

Therefore, for Ukraine to achieve and implement successful reforms of the public service, it is necessary to take into account the experience of member states of the EU, first of all, the Czech Republic and Slovakia, which warns against the structuring of civil service reform as a series of structural reforms. On the other hand, this experience serves as a viable option to create the foundations of a civil service rules and directives, and then its gradual expansion.

4. CONCLUSION

To sum up, the process of gaining EU membership included the implementation of a considerable number of reforms in the candidate countries. It is worth to mention that the reform of public service in the EU member States, which is useful for Ukraine, especially for reasons of expediency and of improving the standard of living standards and economic well-being of the state in general. For Ukraine, it would be important to follow the implementation of

the reform of the public service as was done by Czech Republic and Slovakia- despite the fact that these States have a complex, unequal and demanding way of agreeing with the rules of the club of European States», whose members they wanted to be since 1989. Therefore, further studies may demand the detailed typology of the Central-Eastern Europe, taking into account the criterion of reforming the public service in the context of Europeanization.

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