European Neighbourhood Policy as Organized Anarchy:

The Case of Post-Maidan Ukraine

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Abstract:

Reform processes in the countries of the EU's neighborhood have been characterized by complexity and ambiguous developments in recent years. Building on organization theory research on reforms as sets of loosely coupled 'garbage can' processes (Cohen, March and Olsen 1972), the article develops an analytical framework for studying the organization of EU capacities deployed in support of reform processes in the EU's neighbourhood. It conceptualizes the ENP as an organized framework connecting reform capacities of the EU institutions and EU member states' governments and analyze their interplay in three interconnected dimensions: 1) coherence in definitions of problems in reform strategies; 2) temporal ordering of reform actions; and 3) coherence of strategic visions of relations between the EU and a given ENP country. It applies this framework to the study of EU capabilities used in support of reforms in Ukraine in the post-Maidan period – a period of highly accelerated transformation processes in the Ukrainian society since the end of 2013. Based on recent data collected from study of official documents, governmental databases on development aid projects as well as interviews with diplomats and officials, we study activities of EU-level institutions such as the EEAS, selected member states - Germany and Sweden - and an associated EU state Norway. The findings illustrate that there are three broader patterns characterizing the EU's ENP in Ukraine, namely parallelism of reform strategies and priorities; path-dependence in reform actions; and ambiguity of grand strategic visions of relations with Ukraine.

Keywords:

European Neighbourhood Policy, Ukraine, ambiguity, garbage can process of decision-making, organization theory **Introduction**

Reform processes in the countries of the EU's neighborhood have been characterized by complexity and ambiguous developments in recent years. In efforts to address the growing number of challenges in these countries, the EU's external governance has been taking on various forms including hierarchical, network-based and market-based principles of macro-level interaction between the EU and the neighbouring countries (Lavenex and Wichmann 2008, Lavenex and Schimmelfennig 2009, 2011). Moreover, the EU's ability to transfer its rules to the countries in the neighbourhood is conditioned by a) *institutional factors*, focusing on the extent the EU institutions operate as effective templates that can be emulated; b) *power*, conceptualizing the degree to which the EU is an efficient bargaining player able to promote its own rules in the neighbouring countries; and c) *domestic structures*, inviting us to consider the impact of local governance traditions and capacities. Indeed, the domestic capacity factors in the neighbouring countries are seen as limiting the EU's ability to transfer its rules to societies in the neighbourhood (Börzel 2011, Casier 2011a 2011b, Wunderlich 2011).

So far, there has been less focus on the organizational capacity *on the EU side* in the literature. This means that the efficiency and the limits in how the EU organizes its support to reform efforts in the ENP countries have so far been largely understudied. Indeed, some studies show that EU institutions and the member states' governments often work in shifting constellations of reform plans, strategies and capabilities which negatively affects efficiency (Del Sarto and Schumacher 2011, Börzel and Langbein 2014, Börzel and van Hüllen 2014). Such complexity is common in most organizational reform processes and it has also been a relatively frequent object of studies by organization theorists (March and Simon 1957, Cyert and March 1963, Cohen, March and Olsen 1972). Despite their relevance, insights of this line of work have been overlooked in most of the literature analysing the ENP processes. This article tries to fill this gap. We focus on *organizational* aspects in how the EU and its member states engage with ENP countries. Building on organization theory research on reforms as sets of loosely coupled 'garbage can' processes (Cohen, March and Olsen 1972), we develop an

analytical framework for studying the organization of EU capacities deployed in support of reform processes in the EU's neighbourhood. We conceptualize the ENP as an organized framework connecting reform capacities of the EU institutions and EU member states' governments and analyse their interplay in three interconnected dimensions: 1) coherence in definitions of problems in reform strategies; 2) temporal ordering of reform actions; and 3) coherence of strategic visions of relations between the EU and a given ENP country.

We apply this framework to the study of EU capabilities used in support of reforms in Ukraine in the post-Maidan period – a period of highly accelerated transformation processes in the Ukrainian society since the end of 2013. Based on recent data collected from study of official documents, governmental databases on development aid projects as well as interviews with diplomats and officials conducted in 2015, we study activities of EU-level institutions such as the EEAS, selected member states - Germany and Sweden - and an associated EU state Norway. The findings illustrate that there are three broader patterns characterizing the EU's ENP in Ukraine, namely *parallelism* of reform strategies and priorities; path-dependence in reform actions; and ambiguity of grand strategic visions of relations with Ukraine. The article is structured as follows. First, we outline basic characteristics of the dominant model of the ENP as a rational exercise. Second, we outline an organization theory view of the ENP as an organized anarchy involving EU-institutions and governments of EU member states and associated member states. Third, applying the framework we present empirical findings on reform processes involving EU institutions and actors from Germany, Sweden and Norway. Finally, in the conclusion, we offer broader observations on the nature of the EU's external governance in the countries of the neighbourhood. We argue that ambiguity and complexity in the ENP reform processes may, in fact, be advantageous as a way of ensuring slow and gradual but relatively steady progress in connecting the ENP countries with the EU. Such a process would also be more difficult for both internal and external opponents of integration to organize resistance against and therefore less likely to be derailed.

The ENP as organized anarchy: an analytical framework

Contrary to the expectations outlined in the EU Neighborhood Policy strategies, implementation of reforms agreed in the individual 'ENP Action Plans'¹ has not necessarily been a straightforward rational exercise. Reform processes aligning governance structures with the EU have progressed well in some governance sectors, while there has been less progress in others (Lavenex and Schimmelfennig 2009, 2011) and there is a need for differentiation in the forms of relations with different countries in the neighbourhood (Schimmelfennig et al. 2015, Gstöhl 2015, EU 2015).

In light of these developments it is becoming increasingly clear that the notion of the EU's neighbourhood policy as a coherent and rationalistic framework is a convenient construct that may not hold up to closer scrutiny. To get an analytical grip on the nature of the EU's neighbourhood policy, it behoves us to drop default assumptions of instrumental rationality and instead consider lessons from approaches conceptualizing ambiguity and uncertainty in decision-making and political reforms (Simon 1955; March and Simon 1957; Cyert and March 1963; Cohen, March and Olsen 1972). Such an organization-theory-oriented approach may help us to focus on dynamics that characterize most types of political reforms in practice but tend to be overlooked in reform plans as well as in *a posteriori* accounts of reforms.

While the EU's external affairs administration seeks to portray the ENP as a set of well-organized processes with tangible results², the reality of how the ENP framework operates is complex and ambiguous. Policy initiatives of EU-level institutions are not always coordinated with those of the member states (Democracy Reporting International 2015). Reforms in ENP countries go through various cycles of swift and slower implementation³ (Carnegie 2015). Decisions

¹ Topics in ENP Action Plans include: economic development, environmental policy, energy cooperation, border control, food safety, organized crime, migration management, terrorism, regional conflict prevention, political dialogue, nuclear non-proliferation, tourism, education, tax policy and others (see Van Vooren 2012:3).

² See "European Neighbourhood Policy – How it works", available on the EEAS web-site at <u>https://eeas.europa.eu/topics/european-neighbourhood-policy-enp/330/european-neighbourhood-policy-enp en</u>, accessed on Nov 1, 2016.

³ See <u>http://www.financialobserver.eu/cse-and-cis/ukraine/ukraine-should-be-forced-to-implement-reforms/</u>, accessed on Nov 1, 2016.

involve multiple actors from member-state governments, EU institutions and nongovernmental organizations that promote various and shifting kinds of interests. Particular reform efforts coalesce around assemblages of actors and interests (Democracy Reporting International 2015).

Given this complexity and loosely coupled processes, the 'garbage can' model of organizational decision-making proposed by Cohen, March and Olsen (1972) provides a useful analytical framework for examining the EU's involvement in complex and ambiguous reform processes like those unfolding within the framework of the ENP. The model conceptualizes organizations as organized anarchies. Here, decisions and actions are seen as resulting from more or less random assemblages of four factors. First, there are *problems* that need to be solved: this requires attention and various kinds of resources devoted by actors involved. Second, there are *solutions* that are available, often prior to identification and formulation of relevant problems: this means that solutions become answers that are looking for questions. Third, there are *participants* with various interests providing various kinds of input. The length of their presence relevant to a studied organizational process varies, as their attention and availability may shift elsewhere. Fourth, there are *choice opportunities* – the occasions on which decisions and choices regarding actions in a given organizational context are made. This includes negotiation and signing of agreements, allocation of financial and other resources, etc. The thrust of the garbage can model is the idea that these four factors develop in flows relatively independent of each other, with their relatively random combinations producing organizational decisions. Viewed from this perspective, organized processes are based, not on calculated rational choices, but on relatively random assemblages of problems, solutions, participants and choice opportunities.

To operationalize the garbage can model in the context of the ENP, we focus on three dimensions: 1) coherence in definitions of problems in reform strategies; 2) temporal ordering of reform actions; and 3) coherence of strategic visions of relations between the EU and Ukraine.

In the first dimension, we explore how problems are defined in key strategic documents published by the EU and the governments involved in supporting reforms in Ukraine. What we seek to find out is to what extent there is complementarity and/or parallelism in defining problems and solutions. High degrees of parallelism (same or similar definitions of problems *and* solutions) in EU-level strategies and national strategies will indicate low levels of coordination. In other words, if national actors and EU-level institutions address the same or similar problems and promote similar or the same solutions but based on *different* national standards, this generates a situation where a multiplicity of parallel reform processes and benchmarks is being set for Ukraine. High degrees of complementarity (low overlap in definitions of problems and solutions) between the strategies will be taken as indicating high degrees of coordination between EU-level institutions and national governments of donor countries.

In the second dimension, we explore the extent to which solutions implemented in reform strategies have been available in Ukraine prior to the definition of problems in major reform strategies launched after 2013. We identify the reform programs that were already up and running when new strategies of reforms were launched. This will be referred to as the degree of path-dependence. High degrees of path-dependence of solutions will mean that problems in the EU's major reform strategies launched in 2014 and 2015 were defined in the context of numerous available solutions. Low degrees of path dependence will entail that solutions are in developed in response to needs as defined in the 2014-2015 strategic documents.

In the third dimension, we explore the aims of the EU and of the member states' governments involved in ENP when it comes to their strategic views on the nature of Ukraine's future relations with the EU. This expression of goals will be assessed as an indicator of overall clarity and/or ambiguity of the EU's engagement with Ukraine.

Studying the ENP as an organized anarchy

The primary focus here is on the operation of the ENP as an organized framework for promotion of EU-led reforms in the EU's neighbourhood. What interests us are reform processes and how problems, solutions, participants and choice opportunities intermingle to form reforms. We use empirical data based on interviews and study of official databases and documents to shed light on the processes of how the EU has been engaging with Ukraine in support of reforms. The scope of this study does not allow coverage of all activities of all member states, so we focus on EU institutions, two selected member states (Germany and Sweden) as well as on one associated member (Norway). The choice of studying EU institutions and their engagement in Ukraine's reform processes is an obvious one, but our selection of Germany, Norway and Sweden as cases to study here requires further elaboration. Two factors are important here: the level of engagement with Ukraine; and the public availability of data. Regarding the first factor, Germany and Sweden have been the most active EU member states with regard to engagement in the countries in the Neighbourhood, and Ukraine in particular in recent years, (ECFR 2014, 2015). Norway is also among the highly active players in this region, closely aligning its policies with those of the EU (NOU, 2012). In fact, since the start of the most recent crisis in Ukraine, Norway has radically increased its aid to that country, so that the figure was about ten times higher in 2015 compared to the level in 2013. Moreover, a focus on Norway adds a useful dimension when we seek to capture the complexity of factors influencing reforms in Ukraine as the EU's neighbourhood policy continues to rely on resources and activities of non-EU member states.⁴

Regarding the second factor, the governments of Germany, Norway and Sweden, compared with those of many other EU member and non-member states, provide relatively extensive pools of publically available empirical data on their activities in support of reforms in Ukraine in the recent decades. Data accessibility was an important factor in our choice of these countries' engagement in Ukraine for the current analysis. Still, the empirical examples of processes we study are by no means exhaustive or all-encompassing – much more space would be necessary for that. These three serve merely as illustrations of the complex nature of the processes involved in the EU's engagement with Ukraine.

Degree of parallelism in definitions of problems and solutions in Ukraine

⁴ The USA, for instance, has been a major donor of aid money to Ukraine. In the decade between 1990 and 2000, the USA provided more than USD 1 billion to Ukraine (Rotter 2011:34).

The EU's engagement with Ukraine has been characterized by multiple parallel definitions of key problems facing the country and of solutions that will help in addressing those. Various actors involved have been working with differing albeit partly overlapping definitions of problems. The EU has had its ENP Action Plans for Ukraine since 2004, but the Maidan events in 2013 and early 2014 brought about a need to address newly emerging problems as well as update existing strategies. Following the visit by Commissioners Füle and Lewandowski to Kiev on 25–26 March 2014, the EU, the Ukrainian government and non-governmental actors set about working on a strategic document that would include a list of key challenges facing Ukraine in the short to medium term (problems in the context of the current analysis), with a list of corresponding solutions as well as identification of actors on the EU and the Ukrainian sides, who would be responsible for addressing the problems. The resulting document, titled EU-*Ukraine: A European Agenda for Reform* and introduced on 4 July 2014, included nine key areas: political process; economic support; trade and customs; agricultural issues; justice and home affairs, including the fight against corruption; enterprise; energy; transport; and education, scientific and technological cooperation.⁵ The document defines more than 60 challenges or 'problems' where which Ukraine would need support for promoting various kinds of reforms, as well as sources of funding for addressing the problems.

While the problems and activities identified in the document EU–Ukraine Agenda for Reform continued to be addressed, the EU and Ukraine adopted a new strategic document – the *EU–Ukraine Association Agenda* – on 16 March 2015.⁶ Obviously, while there is some overlap between these two key strategic documents adopted in 2014 and in 2015, there are also areas in which the latter strategy is less comprehensive. This pertains in particular to problems in the areas of security sector reform and agricultural reform.

Member states of the EU have also come up with their *national* definitions of key problems facing Ukraine. *Germany* has been actively involved in supporting

⁵ See *EU – Ukraine: A European Agenda for Reform.* Brussels: European Commission, July 4, 2014 (available at <u>http://ec.europa.eu/archives/commission_2010-</u>

^{2014/}fule/docs/ukraine/a european agenda for reform.pdf, accessed October 10, 2016). ⁶ EU–Ukraine Association Agenda to prepare and facilitate the implementation of the Association Agreement; Brussels: EEAS, 16 March 2015

transformation processes since the early 1990s, with several major strategies of reforms defined by Germany. Between 1994 and 2005, Germany spent \in 87.5 million via bilateral programmes to Ukraine and another \in 115 million via the TRANSFORM Programme (Rotter 2011:34). In the context of post-Maidan developments, in early June 2015 the German government provided its own list of key problems facing Ukraine in its Action Plan for Ukraine (Federal Government of Germany 2015). The plan includes a list of five problem-areas and a list of solutions that Germany will provide to address. ⁷ The German government declared its willingness to spend about \in 700 mill. in 2015 to support attainment of goals in this Action Plan (Federal Government of Germany 2015:2).

Numerous German governmental and non-governmental organizations have also been actively engaged in addressing problems in Ukraine. This includes the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) (the German Association for International Cooperation), working in Ukraine since the early 1990s on behalf of various ministries of the German federal government. Their definition of key problems includes three areas: sustainability of economic development, energy efficiency, and spread of HIV/AIDS.⁸ Various solutions have been proposed in these areas. The GIZ initiated numerous projects in cooperation with the ministries of the Ukrainian government and commissioned numerous reports on how the Ukrainian public administration and public services could be reformed – mostly using solutions operating in the Federal Republic of Germany as a source of comparison, good practice and benchmarking.⁹ This included the provision of expert comments and suggestions on proposals for new legislative acts in the field of Ukrainian public administration reform in 2008 - again specifically from a German perspective and using German legal practices as examples. ¹⁰ Solutions for Ukraine's problems have also been proposed by

⁷ See *Aktionsplan Ukraine*, Government of the Federal Republic of Germany, 5 June 2015 (available at

http://www.kiew.diplo.de/contentblob/4539124/Daten/5510808/pdf_aktionsplan.pdf, accessed November 1, 2016).

⁸ See <u>http://www.ims-ukraine.org/en</u>, accessed on Sept 10, 2016.

⁹ The GIZ has been publishing its expert reports on in Ukraine since 2008. See <u>http://www.ims-ukraine.org/en/publications</u> (accessed Oct 15, 2016)

¹⁰ See, for instance, Schimanke, D. und Zimmermann, H. (2008): *Stellungnahme zu Konzept und Gesetzentwurf zur Administrativ-territorialen Reform in der Ukraine*, Projektdokument N. 19, GIZ, Kiev, November 2008 (available at <u>http://www.ims-ukraine.org/sites/default/files/Nr-19-deutsch.pdf</u>; accessed Sept 29, 2016).

foundations affiliated with political parties in Germany, such as the Konrad Adenauer Stiftung and Friedrich Ebert Stiftung. The former, for instance, has recently used German experience in sustainable economic development as a benchmark for solutions that could be implemented in Ukraine.¹¹

[Table 2 about here]

Also *Sweden* has been working with Ukraine in supporting reform processes since 1995. In the years 2009 to 2013, its efforts were concentrated in two problem areas, identified as key challenges where Sweden could be of assistance to Ukraine: democratic governance and human rights; and natural resources and environment. Sweden provided SEK 180 mill. (approx. € 18 mill.) in financial support in 2009; SEK 200 mill. (approx. € 20 mill.) in 2010 and about SEK 220 mill. (approx. \notin 22 mill.) in the years 2011–2013.¹² As the Swedish government explains, the choice of the two focal areas of reforms was made 'based on reform needs identified by Ukraine in its communication with the EU, Sweden's comparative advantages and activities carried out by other donors.^{'13} In response to the recent conflict, Sweden has increased its annual support to Ukraine by about SEK 235 mill. (approx. €23.5 mill.) since 2014.¹⁴ Sweden has also updated the definition of problem areas in which it supports development cooperation projects. There were, as of the time of writing (December 2015), four key areas: enhanced economic integration with the EU and the development of market economy; strengthened democracy, with greater respect for human rights and a more fully developed state under the rule of law; a better environment, with reduced climate-change impact, and enhanced resilience to environmental impact

http://www.kas.de/ukraine/de/publications/42407/, accessed Sept 29, 2016) ¹² See *Samarbetsstrategi for utvecklingssamarbetet med Ukraina januari 2009 – december 2013*. Stockholm: Swedish Ministry of Foreign Affairs, 11 December 2008 (available at http://www.regeringen.se/contentassets/14ff44c69d9141219ca5eb51130a20be/strategi-forutvecklingssamarbetet-med-ukraina-2009-2013, accessed Oct 20, 2016). ¹³ Ibid., p. 2

¹¹ See Nachhaltige Entwicklungspolitik: deutsche Erfahrungen bei der Lösung ökologischer und sozialer Probleme, Perspektiven deren Anwendung in der Ukraine. KAS Policy Paper 23, Kiev: Konrad Adenauer Stiftung, 2 September 2015 (available at

¹⁴ See <u>http://www.government.se/opinion-pieces/2014/11/swedens-commitment-to-ukraine-deepens/</u>, accessed on Oct 29, 2016

and climate change; and humanitarian support.¹⁵ Of particular importance here are activities of Swedish International Development Cooperation (SIDA), which has been supporting projects in at least five areas (see Table 3). In 2014, SIDA provided more than SEK 181 mill. (about \in 18 mill.) in aid to Ukraine.¹⁶ As of September 2015, there were 52 projects supported by Swedish governmental funds developing solutions in various areas in Ukraine. Of these, 31 projects had been initiated in November 2013 or earlier (with some ongoing projects launched as far back as 2007).¹⁷ As can be seen from Table 3, several of the issue-areas feature solutions based on experiences of Swedish actors – in particular in the area of local governance, energy and civilian security sector reform.

[Table 3 about here]

¹⁵ For a complete list of projects supported, with brief descriptions and financial allotments see <u>http://www.swedenabroad.com/en-GB/Embassies/Kyiv/Development-</u>

<u>Cooperation/Development-Cooperation-with-Ukraine/</u>; accessed Oct 29, 2016. ¹⁶ See <u>http://www.sida.se/English/where-we-work/Europe/Ukraine-/Cooperation-in-figures/</u>,

accessed Oct 29, 2016

¹⁷ For an overview of project aims, funding and duration see <u>http://www.swedenabroad.com/en-GB/Embassies/Kyiv/Development-</u> <u>Cooperation/Development-Cooperation-with-Ukraine/</u>, accessed Sept 15, 2016)

Norway has also been increasingly active in Ukraine, and explicitly supports the approach of the EU. In the period since the Maidan events in late 2013 and early 2014, the Norwegian government has increased its financial support substantially. Norway provided NOK 106.5 mill. (more than € 11 mill.) in development aid to Ukraine in 2014 – up from NOK 34.6 mill. NOK (€3.6 mill.) in 2013, NOK 22.8 mill. (€ 2.4 mill.) in 2010 and a mere NOK 1.4 mill. (about €150,000) in 2005. ¹⁸ Norwegian official development aid to Ukraine has increased 100-fold in the last 10 years, with the most significant year-on-year increase between 2013 and 2014. In 2015, Norway's overall support to Ukraine amounted to NOK 310 mill. (€ 36.35 mill.);¹⁹ Norway has committed itself to NOK 390 mill. (\notin 41,70) for 2016. With the earlier support from Norway had been some NOK 40 mill. annually since the mid-1990s, the recent increase is guite substantial. As explained by Norway's State Secretary (junior minister) for Foreign Affairs in late April 2015, Norway focuses on the following priorities in its support to Ukraine: budget support; energy reform; European integration; good governance, transparency and accountability; strengthening of civil society and free media; and the fight against corruption (Brattskaar 2015). Norway is also explicitly promoting Ukraine's Europeanisation process in the sense that all recent supported projects aim at assisting Ukraine in complying with EU standards.²⁰ In 2015, the Norwegian support has been allocated as budget support (NOK 100 mill. or € 10.3 mill.); to security sector and constitutional reform (NOK 73 mill or € 7.5 mill.); energy reform and nuclear safety (NOK 77 mill. or € 7.9 mill.); trade facilitation and EU integration (NOK 20 mill. or € 2.06 mill.) as well as general humanitarian aid (NOK 40 mill or \in 4.12 mill.).²¹ At the time of writing (December 2015), the Norwegian government was supporting 37 different projects in Ukraine.²² As of mid-October 2015, main priorities for Norway's support to Ukraine were defined as follows: judicial reform and good governance; energy sector reform and efficiency; improving the country's competitiveness;

¹⁸ See <u>http://www.norad.no/om-bistand/norsk-bistand-i-tall/</u>, accessed 22.11.15.

¹⁹ See <u>http://www.norway.com.ua/News and events1/Grants and projects/Norways-support-to-Ukraine-in-2015/#.VIFOTHYveM8</u>, accessed 22.11.15.

²⁰ http://www.norway.com.ua/News_and_events1/Grants_and_projects/#.VjInu8mEr9c

²¹ http://nucc.no/norway-increases-its-support-to-ukraine/"

²² <u>http://udtilskudd.regjeringen.no/#/nb/sector/details?country=14&year=2015</u>

strengthening the private sector and entrepreneurship; and help to IDPs from Crimea and Eastern Ukraine.²³ In addition to the Ministry of Foreign Affairs, Norway's Ministry of Defence actively supports reforms in Ukraine. For instance, the Centre for Integrity in the Defence Sector (SIFS) in the Norwegian Ministry of Defence has recently offered Ukraine support and assistance to the process of adapting the Ukrainian human resource management system in the defence sector to EU standards by raising awareness of integrity and anti-corruption issues.²⁴ In addition to these projects, Norway has also agreed with the EU to introduce regional funds in the EEA grant scheme²⁵, which opens up these grants for projects undertaken by new member states in collaboration with partners in Ukraine and Moldova.²⁶

As these examples show, EU member states as well as associated member states like Norway have their own lists of problems they have been seeking to address in Ukraine with the support of their own financial frameworks and programmes, while also supporting the work on problems defined by the EU, as discussed above. In all cases, there has been a significant expansion of the volume of finances provided to Ukraine since early 2014, as well as an expansion of the problem areas that donor countries and their organizations seek to address by tailor made solutions drawing on resources at their disposal. On the other hand, some of the problems and programmes for dealing with them have been around for a decade or longer, and there is also significant overlap between countries in the problems their programmes address in Ukraine.

[Table 4 about here]

²³ See <u>http://www.eu-norway.org/news1/Norway-to-increase-support-to-Ukraine-by-NOK-80-million/#.VjDdhcmEr9c.</u> accessed Sept 15, 2016.

²⁴ See <u>http://www.tnp.no/norway/panorama/5121-norway-supports-ukraines-efforts-to-combat-corruption</u>, accessed on Sept 15, 2016.

²⁵ Ever since the establishment of the <u>EEA Agreement</u> in 1994, Iceland, Liechtenstein and Norway have provided funding to reduce social and economic disparities in the EEA. The funding is targeted on areas where there are clear needs in the beneficiary countries and that are in line with national priorities and wider European goals (eeagrants.org).

²⁶ See <u>http://eeagrants.org/News/2015/Agreement-secured-on-new-funding-round</u>, accessed on Sept 15, 2016.

Degree of path-dependence or temporal ordering of reform actions

An analysis of the dates when projects were initiated by the donor countries investigated here (Germany, Norway and Sweden) shows relatively high degrees of path-dependence in the reform programs. Some 88% of German projects and 61% of Swedish reform projects in Ukraine were launched in the pre-Maidan period, i.e. before the end of 2013 (see Figure 1). Turning to the number of aid projects provided by all EU-level institutions combined, we find that of the 1805 EU-funded projects active in Ukraine in 2015, as many as 1696 (93%) had been launched in the pre-Maidan period.²⁷ This means that the new comprehensive reform strategies by the EU launched in 2014 and 2015 (e.g. EU – Ukraine Agenda for Reform) have had to work with numerous solutions that were made available before the problems were defined in these strategies. This in turn indicates that, in formulating the 2014 and 2015 strategies and in defining problems, the solutions already being offered to Ukraine by the EU and by the three states studied here. And this have, in turn. structured the choices and formulations of new reform strategies. As compared to Germany and Sweden, Norway shows a relatively low degree of path-dependence in its reform efforts in Ukraine (see Figure 1), and this has to do with the fact that Norway had not been very active in Ukraine in the pre-Maidan period. Rather it began focusing on problems in response to post-Maidan events. Norway's solutions may therefore be more upto-date and better for dealing with actual needs in Ukraine than what is the case with the other reform efforts launched previously.

²⁷ Data on the EU projects from the EU Aid Explorer database (available EU Aid Explorer: <u>https://euaidexplorer.ec.europa.eu/SearchPageAction.do</u>; accessed December 12, 2015)

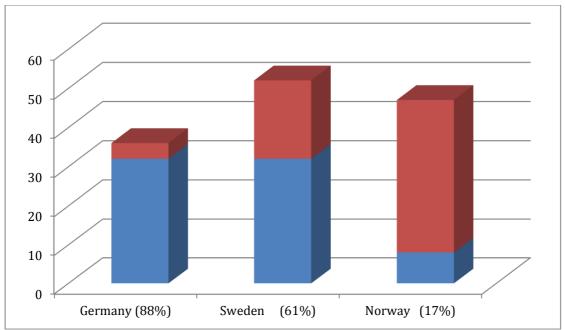


Figure 1: Degree of path-dependence in reform programs in Ukraine Blue: launched prior to end of 2013; red: launched after the Maiden events

Sources: Federal Ministry for Economic Cooperation and Development, Germany, project database; Swedish Embassy to Ukraine and Norwegian Ministry of Foreign Affairs Grants Portal. ²⁸ Percentages were calculated from all active projects funded by the respective government in Ukraine in 2015. Projects launched before the end of 2013 were seen as being launched in the pre-Maidan period (shown in blue).

Ambiguity of the reform processes in Ukraine

Lack of coordination

ENP processes in Ukraine have been characterized by a dynamic flow of participants and their shifting constellations. This has included EU institutions and EU-level initiatives as well as member-state governments and other

²⁸ Federal Ministry for Economic Cooperation and Development, project database (available at http://www.bmz.de/de/was wir machen/wege/transparenz-fuer-mehr-Wirksamkeit/iati/index.jsp;; Swedish Embassy to Ukraine (http://www.swedenabroad.com/en-GB/Embassies/Kyiv/Development-<u>Cooperation/Development-Cooperation-with-Ukraine/;</u> accessed 12.12.15); Norwegian Ministry of Foreign Affairs Grants Portal (http://udtilskudd.regjeringen.no/#/en/sector/details?country=14&year=2015. All accessed 12.12.15.

organizations and their initiatives. Below we review efforts to coordinate key EUlevel participants as well as those from Germany, Norway and Sweden.

Various EU-level institutions have been involved in supporting reforms in Ukraine since the early 1990s. The focus of our analysis here is on the actors and actions of EU institutions in the wake of the crisis since early 2014. On 5 March 2014, the European Commission announced the *Support Package for Ukraine*, set to bring approx. \notin 11 billion in EU funding and an additional \notin 1.4 billion in grants from member states over the next seven years.²⁹ Between 2013 and 2015, there was a sharp increase in interaction between EU institutions and the Ukrainian authorities, for example the activities of the *Technical Assistance and Information Exchange instrument* (TAIEX) of the European Commission (see Gozzi 2015).

According to the *Support Package for Ukraine*, investments, distribution of grant money and management of various reform initiatives are to be conducted by the European Commission in cooperation with several other organizations, most notably the European Investment Bank and the European Bank for Reconstruction and Development, as well as drawing additional funds from the World Bank and the International Monetary Fund. The same document notes the need to establish an *international donor coordination mechanism* in the form of an international platform based in Kiev, to coordinate the efforts of EU institutions, EU member states as well as other international donors in Ukraine.³⁰ The platform is to meet regularly in Brussels, to enable close coordination.³¹ The international donor coordination of donor efforts. On the ground, the EU Delegation is responsible for coordination.³¹ The international donor coordination platform was established on 27 May 2014, holding its first meeting on 8 June that year. A *Development Assistance Database* for Ukraine has also been also established to provide an overview to donors of projects implemented in the country.³²

In exploring efforts to coordinate, we focus here on two key initiatives set up in the wake of the crisis, i.e. since spring 2014. First, the *Support Group for*

²⁹ See <u>http://ec.europa.eu/enlargement/neighbourhood/countries/ukraine/index_en.htm</u>, accessed Oct 29, 2016.

 ³⁰ See Support Package for Ukraine. Brussels: European Commission, 5 March 2014, p. 4 (available at <u>http://europa.eu/newsroom/files/pdf/ukraine_en.pdf</u>, accessed October 15, 2016)
 ³¹ ibid.

³² See <u>http://ukraine-gateway.org.ua/international-organizations/assistance-database.html</u>, accessed October 15, 2016

Ukraine (SG) was set up by a decision of the Council of the EU on 9 April 2014. It is administratively based in DG DEVCO, is composed of between 30 and 40 Brussels-based officials and is led by Peter Balas – a senior Commission official. These experts assist Ukrainian governmental ministries and other institutions (e.g. the Verkhovna rada (parliament)) in drafting legislation, preparing reform proposals, developing communication strategies about reforms, etc. Members of the SG do not have a central coordination point on the Ukrainian side. In fact, the *EU–Ukraine Agenda for Reform –* adopted jointly by the EU and the government of Ukraine on 4 July 2014 – had foreseen the creation of an 'institution to be set up within the Government of Ukraine dealing with the process of political association and economic integration with the European Union'. As of the time of writing (December 2015) such an institution was still not in place, and cooperation with the Ukrainian side was conducted through multiple channels. This means that the SG experts were mostly attached to state secretaries in the various respective ministries, which brought a degree of fragmentation in their work. Realities on the ground also complicated their work, as state secretaries in some ministries were appointed only three or four months after the October 2014 elections in Ukraine. Hence, SG members often found themselves working without stable counterparts on the Ukrainian side.³³ There were efforts to coordinate the work of the SG on the level of the EU Delegation in Kiev. However, not all activities could be coordinated; moreover, and member states do not always provide information on their activities on the ground to the SG or to the EU Delegation.³⁴ In autumn 2015, the SG was re-organized into sector teams in the following areas, corresponding to the reform packages outlined in the EU–Ukraine Association Agenda: agriculture; economic; education, science, health and social policy; energy and the environment; justice and home affairs; political; trade and industry; transport and infrastructure.35

³³ Interview with two senior Slovak NGO experts involved in Ukraine reforms, Bratislava, 20 June 2015

³⁴ Interview with senior diplomats, Permanent Mission of Slovakia to the EU, Brussels, 28 May 2015; interview, Permanent Mission of Germany to the EU, Brussels, 29 May 2015; interview with two senior Slovak NGO experts involved in reforms in Ukraine, Bratislava, 20 June 2015.
³⁵ See http://ec.europa.eu/enlargement/neighbourhood/countries/ukraine/sgua/index_en.htm, accessed Oct 29, 2016.

The second structure established by the EU was the *EU Advisory Mission for Civilian Security Sector Reform Ukraine* (EUAM Ukraine) – a civilian mission within the framework of the EU's Common Security and Defence Policy (CSDP), set up by Council decision on 22 July 2014. The purpose of this unarmed non-executive mission has been to assist the Ukrainian authorities in reforming their security sector, including police and rule of law.³⁶ The mission has been headed by Kalman Miszei, a Hungarian official with experience from working in various EU missions in the Neighbourhood; it is staffed by about 50 officials from the EU member states. Formally, the EUAM started operations in December 2014. The level of coordination of EUAM and the SG with activities of EU member states was perceived as low or limited.

In addition to the EU initiatives, various organizations connected with the EU member states operate on the ground in Ukraine with relatively little coordination with the EU Delegation and/or EU institutions. Indeed, many of the current reform efforts were preceded by initiatives launched earlier. One example is Germany's GIZ, which has been operating in Ukraine since 1996, on the basis of an agreement between the German Federal Government representing its various ministries and the Government of Ukraine. As of September 2015, the GIZ had offices in 16 locations in Ukraine, with approximately 100 employees.³⁷

While Germany has various actors on the ground, Sweden seems to be channelling its assistance primarily through Ukraine state institutions (through twinning and technical assistance), with the aim of building institutional capacity; or through Ukrainian civil society organisations, international nongovernmental organizations (such as National Democratic Institute, East Europe Foundation and Global Action Plan), intergovernmental organizations (such as the Council of Europe and the OECD), as well as development banks (EBRD, the World Bank, NEFCO, EIB) through investment grants and technical assistance.³⁸ Norwegian assistance is given primarily as project grants to various Ukrainian state

³⁶ 'EU establishes mission to advise on civilian security sector reform in Ukraine', Press Release, ST 11974/14, PRESSE 405, Brussels: Council of the EU, 22 July 2014

³⁷ See <u>http://www.ims-ukraine.org/en/reform-municipal-services-eastern-ukraine</u> (accessed Oct 15, 2016).

³⁸ See <u>http://www.swedenabroad.com/en-GB/Embassies/Kyiv/Development-</u> <u>Cooperation/Development-Cooperation-with-Ukraine/</u>, accessed on Oct 15, 2016

institutions. ³⁹ In some areas, such as energy safety, Norway works closely together with Sweden. The Norwegian government has pointed out that it tries to provide its assistance in close cooperation and coordination with the EU and the member states to avoid overlap, but this may prove challenging at times.⁴⁰ In addition to this multitude of actors and relative lack of overarching coordination comes the fact that the member states and other actors have been promoting differing priorities and approaches to the processes of EU-oriented reforms in Ukraine. As one senior German diplomat declared: 'It seems we are repeating the mistakes we made in Kosovo or East Timor. All the donors rush in and there is lots of overlap, duplication and low coordination.'⁴¹

Unstructured approach

As the previous sections indicate, the EU, its member states and associated members (like Norway), together with their non-governmental organizations, have been involved in a wide range of reform processes in Ukraine. As our interviews with senior officials of the EEAS as well as member-state delegations to the EU confirm, member states have been involved in supporting various kinds of reforms – usually in areas where they have the necessary expertise and foreign policy priorities. Poland, for instance, has been actively involved in Ukraine, supporting anti-corruption measures and processes of decentralization. The Polish government's anti-corruption agency has been working with the Ukrainian government in setting up the Ukrainian anti-corruption bureau. Concerning decentralization, Polish experts have assisted the Ukrainian authorities in developing legislative proposals for reform of municipalities and municipal governance as well as the territorial structure of regions.⁴² Similar assistance activities have been conducted by experts from Germany, as well as from France and the USA.⁴³ The Slovak government has been involved in two areas in

³⁹ See <u>http://udtilskudd.regjeringen.no/#/nb/sector/details?country=14&year=2015</u>, accessed on Oct 15, 2016

⁴⁰ Information provided by the Norwegian embassy in Kiev, November 2015.

⁴¹ Interview, senior diplomat, Permanent mission of Germany to the EU, Brussels, 29 May 2015.

⁴² Interview, Polish mission to the EU, Brussels, 28 May 2015.

⁴³ Interview, German mission to the EU, 29 May, 2015.

particular: energy sector reform and security sector reform.⁴⁴ Energy sector reform has also been a key priority of work carried out in Ukraine with the assistance of the governments of Denmark, Germany and the Netherlands.⁴⁵ France has been involved several reform initiatives; a key priority area has been the reform of Ukrainian justice sector.⁴⁶ Civil society formation and reforms have been the mainstay of the work done with assistance from the Czech government.⁴⁷ Norway has given priority to reform of the justice sector and energy reform, but has also been involved in constitutional reform and nuclear safety issues.

In addition to the wide range of reform processes that EU member states have been involved in – often in parallel – approaches have also varied among member states as regards the nature of Ukraine's future association with the EU. As several interviewees pointed out, there has been one group of member states who favoured the development of the closest possible ties with Ukraine, not excluding the potential of offering full EU membership. This group has consisted mostly of the Baltic states, Poland, Slovakia, Sweden, Denmark and the UK. On the other hand, there have been several countries – most notably in the South of the EU – sceptical to offering Ukraine anything more than an Association Agreement within the framework of the ENP. That also applies to the latest official standpoints of the German government, which has been increasingly cautious about going too far in deepening its relations with Ukraine in order to avoid damaging relations with 'the neighbours of the neighbours – Russia.⁴⁸ Germany is apparently becoming more and more aligned with France's traditional position on ENP/EaP. While Germany has generally had a fairly open approach, the French have insisted on interpreting the ENP as clearly distinct from the enlargement process – and not even as a potential preparation phase for future membership.

The reason for such an unstructured approach to Ukraine , has been the lack of a clear international governance structure, with a mandate to oversee societal transformation processes and approximation to the EU, like the one the EU put in place in Bosnia-Hercegovina since the late 1990s (Bildt 2015).This

⁴⁵ Interview, German mission to the EU, May 29, 2015.

⁴⁶ Interview, German mission to the EU, May 29, 2015.

⁴⁷ Expert interview, Bratislava, 20 June 2015.

⁴⁸ Interview, German mission to the EU, 29 May 2015.

means that the EU, its member states and other actors insteadfind themselves involved in supporting a multiplicity of transformation initiatives. The SG for Ukraine as well as the EU Delegation in Kiev have been seeking to coordinate efforts on the ground in Kiev but such coordination is highly dependent on member-state willingness and capacity to coordinate.⁴⁹ Moreover, as discussed in the previous sections, many member-state development projects in Ukraine have been initiated independently of each other, and follow time-lines and financing schedules without little direct intergovernmental coordination.

Conclusion: ENP as organized anarchy and implications for future research

In this paper we have argued that the EU's neighbourhood policy as a policy framework has been undergoing a profound transformation. As the Ukrainian case shows, the reform processes in the countries of the neighbourhood conducted as part of this policy are *not* as rationally calculated as is often believed. Rather, it seems more useful to conceptualize the operation of the ENP framework in Ukraine as organized anarchy involving multiple and varying definitions of problems, a multitude of solutions generated and provided without clear connections with problems or before problems are defined, numerous participants and a plethora of reform processes with relatively little effective coordination.

There are three main findings in this article. First, that the EU's reform efforts in Ukraine are characterized by parallelism – problems that need to be addressed are defined in multiple ways, with overlapping reform processes in initiatives run by the EU, by its member states, by associated non-member states as well as by other international actors. Second, we identified relatively high degrees of path-dependence in the reform programmes run by the EU and by Germany, medium-level path-dependence in Swedish programmes and low levels of path-dependence in reform projects run by Norway (see Figure 1). This indicates that major reform strategies launched in 2014 and 2015 for identifying

⁴⁹ Expert interview, Bratislava, 20 June 2015; interviews EEAS HQ Brussels, 27 and 28 May 2015.

problems in the post-Maidan period were constructed in the context of a multitude of solutions that were already being implemented on the ground, having been defined in the pre-Maidan period. This also makes it clear that the ENP is a highly socially embedded strategy, harnessing combinations of existing resources while also seeking to provide well-defined and rationally calculated reform proposals. Third, we have recorded high degrees of ambiguity in the EU's reform efforts in Ukraine. This included both low coordination of various actors on the ground as well as differing visions of actors as regards Ukraine's future relations with the EU.

Some of this ambiguity in the EU's role in the neighbourhood has already been discussed and criticized in the academic literature. Suffice it here to note the 'capabilities–expectations gap' (Hill 1993) or the above-discussed view of the EU's reform agenda as consisting of symbolic actions and window-dressing (Del Sarto and Schumacher 2011). More research is needed, however, on the possible strategic uses of this ambiguity as a source of the EU's strength and influence in the neighbourhood. This follows the general argument put forward by Olsen (2010) that EU's survival may depend on the fact that it remains a rather ambiguous political entity which various actors associate with various meanings.

Applied to the context of the ENP, the ambiguity of the EU's engagement with the neighbouring countries, featuring multiple and loosely coupled processes involving EU-level institutions as well as bilateral donor initiatives of governments, leads to uncertainty in terms of what is actually happening to the countries in the neighbourhood. As the case of Ukraine shows, there are competing and complementary visions as to the problems to be dealt with; it is unclear which solutions are useful and when; many participants are involved, and it is often uncertain who is responsible for which parts of the reform agenda, and when important decisions can and should be made.

While this may seem a chaotic situation, it is – hypothetically - also more difficult for opponents of reforms – whether internal to Ukraine or from outside the country ('neighbours of the neighbours') – to stage effective opposition to reforms implemented as part of such a 'garbage can' process. And for these very reasons, it might be that this model will result in better governance structures in Ukraine, a deepening engagement of Ukraine with the EU, and thereby a different

and more flexible type of security community building process – all more sustainable in the long run. Obviously, this should be the object of future research.

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