

дини, у тому числі прав дитини. Тобто, вперше офіційно робиться спроба побудувати таку ієрархію цінностей, яка б дозволила ЄС наблизитись до глобальних цілей, які закріплені у першому параграфі ст. 3 Договору про Європейський Союз: підтримувати мир, свої гідності та добробут своїх народів.

Поважати і дотримуватися цих цінностей – обов'язок як Союзу в цілому, так і кожної входящої до нього держави окремо. Відданість цінностям ЄС також виступає як непорушна умова, що пред'являється до держав, що бажають вступити до складу Європейського Союзу. Неповага до цих цінностей може спричинити застосування до держави-порушника санкції у вигляді призупинення певних прав, пов'язаних з членством в ЄС. Так згідно зі ст. 7 Договору про ЄС, у випадку існування явної погрози серйозного порушення якою-небудь державою-членом цінностей, зазначених у ст. 2, Рада, після констатації зазначеної погрози, може направити державі-порушникові рекомендації із запобігання причин, що викликали подібну констатацію. А у випадку серйозного та стійкого порушення якою-небудь державою-членом цінностей, зазначених у ст. 2, Рада може ухвалити рішення щодо призупинення окремих прав, що впливають із застосування Договорів до відповідної держави-члена, у тому числі права голосу представника уряду цієї держави.

Європейський Союз не зупиняється на досягнутому і постійно вдосконалює наданий своїм громадянам простір свободи, безпеки та правосуддя. Перенесення загальнонародських, глобальних цінностей у наднаціональну правову систему ЄС можна розглядати як формування регіональних цінностей, притаманних саме європейській цивілізації. Будучи легітимізованими у формі закону, вони сприяють утворенню прямих і зворотних зв'язків, що забезпечують ефективність управління принципово новим державоподібним утворенням на наднаціональному рівні.

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DIFFICULTIES OF UKRAINE'S CHOICE BETWEEN THE EUROPEAN UNION AND CUSTOMS UNION

Choosing between European and Customs Union is one of the major issues facing Ukraine today. Earlier the authorities had fully

adjusted to the West and claimed that European integration is the priority of its foreign policy, but now they are searching for ways of integration to such associations as Customs and the Eurasian Union. According to experts, in the near future Ukraine has to decide the direction of foreign policy.

After serious decline in the 1990s, Ukraine's economy finally started its recovery and systemic reform in early 2000. While the economy rapidly grew by 2008, its transformation remained unfinished. The agenda of the current government under President Viktor Yanukovich is being driven by the interests of a small group of people. This, together with the electoral cycle, makes the administration disinclined to implement painful and long-awaited structural reforms. The economic crisis of 2008-2009 put Ukraine's only semi-transformed economic model in question. The closed nature of Ukraine's economy and high dependence on low value-added exports are an unsustainable basis for economic growth. To return to double-digit gross domestic product (GDP) growth and put the economy on a path of sustainable development, the country has to seek external resources and become more open. However, Ukraine's bad international ranking, lack of substantial natural resources and rent-seeking economy does not make it an attractive foreign direct investment (FDI) destination.

Ukraine is now at a crossroads. There are three possible roads to take. The first, and least probable, is to stay on its own and continue «business as usual,» i. e. to retain a relatively closed economy controlled by a small group of businessmen, with little competition and limited economic freedom. The second, and currently most feasible, is to sign an Association Agreement (AA) with the EU that includes a Deep and Comprehensive Free Trade Agreement (DCFTA). Negotiations with the EU are now finalized: the agreement was finally initialed at the end of March 2012—not without much controversy. However, further steps, such as signing and ratification of the agreement depend solely on the Ukrainian side. The third, and most controversial, choice is to join the Customs Union with Russia, Belarus and Kazakhstan and embark on further Moscow-led integration projects. Ukraine's choice will not only affect trade flows with its two neighbors. It will also indicate the speed and direction of structural reforms, or lack thereof. Ukraine's choice will also have an impact on the EU and Russia. Ukraine is a key country within the EU's Eastern Partnership initiative (EaP). It is first of all the largest country in the EaP region with a population of forty-six

million. It is also the country that initially had the biggest number of supporters among the EU member states. Ukraine was the first country to be offered deep economic integration and political association with the EU. Within the Partnership, the EU invested considerable political capital on Ukraine and the EU-Ukraine AA/DCFTA will serve as a model for relations with other EaP countries. For Russia, striving to rebuild a closely linked economic area within the post-Soviet space, Ukraine plays a key role. Without Ukraine, the post-Soviet space's second largest economy, the Customs Union and further integration projects may be unsustainable in the long term. Over the past months, Ukraine's leadership has repeatedly confirmed the country's interest in signing and ratifying the Association Agreement with the EU. Meanwhile, Russia's invitation to join the Customs Union has been consistently, but politely declined. However, many Western and Russian observers still question the irreversibility and credibility of this decision. The membership in the Customs Union may bring cheap Russian gas that official Kyiv is in dire need of. Ukrainian officials also keep making references to the Customs Union both in public debates and private conversations with the EU officials.

The decision of which path to take has yet to be taken, however. When the time comes, it will be made by president Yanukovich alone. Unfortunately for Ukraine, it will not be made based on expertise and calculations of the national interest; rather, it will be informed by factors the interests of the president and his entourage.

While the costs and benefits of the EU-Ukraine DCFTA have been calculated and are publicly discussed, similar estimates are lacking concerning the Customs Union. Deeper integration with the EU will cost Ukraine—both the state and businesses—in the short run. However, it promises to have clear welfare benefits in five to ten years. It may also send a positive signal to foreign investors and create new possibilities for Ukrainian goods and services on EU markets through the improvement of norms and standards. The Ukrainian economy is supposed to become more transparent and the rules of the game for businesses are likely to improve significantly. There is little evidence to suggest that membership in the Customs Union would bring sustainable benefits. The Russian government has presented several positive figures, but no substantial evidence. The experience of Belarus and Kazakhstan shows their bargaining power in relation to Russia to be limited. The costs of deviation from WTO commitments are likely to outweigh

compensation promised by Russia. Moreover, the Ukrainian leadership and the business interests connected to it are not ready to hand decision-making power to Moscow.

Russia's offer is based on promises. Yet there is little evidence of available money in Moscow. Promises of cheaper gas are likely to remain on paper. Moreover, Ukraine's economy may be better off without cheaper gas. Georgia's experience shows that once cut from the «Russian energy needle,» it becomes easier to diversify energy sources and increase energy efficiency. However, Russian threats of negative consequences are real and Ukrainian businesses are concerned about them.

The consensus in Ukraine's public and elite debate is largely in favor of the EU-Ukraine DCFTA while membership in the Customs Union does not find public support. Thus, it is difficult to see Ukraine changing course especially given forthcoming parliamentary elections in October 2012 and presidential elections in 2015.

Kyiv's choice will be made based on the economic (corporate) interests of the current leadership and a small circle of businesses around it rather than on expert calculations. So far analysis suggests that the leadership is in favor of a European direction. Even if democratic failings prevent Ukraine from signing the EU-Ukraine DCFTA in the short run, it is highly unlikely that Kyiv would consider Customs Union membership.

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ЕВРОПЕЙСКИЕ ТРАДИЦИИ ФОРМИРОВАНИЯ ЮРИДИЧЕСКОЙ ЭЛИТЫ

С активностью элит во многом связаны перспективы социального прогресса. Адекватное освещение вопросов формирования и функционирования юридической элиты позволяет яснее видеть перспективы развития ведущих государств Европы.

В юридической науке проблема юридической элиты напрямую связывается с юридическим образованием. Европейские государства обладают богатым арсеналом традиций и огромным опытом в подготовке квалифицированных юристов. Этот опыт