BUSINESS, VALUES, AND EU’S RESPONSE TO PROTESTS IN UKRAINE
Cases from 2003-04, 2010, and 2013-14

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Until mid-2014, the cooperation between the EU and Ukraine was conducted within the frameworks of the ENP, Partnership and Co-operation Agreements, and \textit{ad hoc} agendas. Such kind of cooperation allowed the enjoyment of mutually beneficial patterns of coexistence, however not the most efficient ones. In order to make the pre-2014 cooperation functional, the EU employed both institutional “hard” power and civilian “soft” power leverage. In the aftermath of the Euromaidan, the UEUAA and DCFTA fell into place, which made Ukraine an associate partner of the EU; the latter is the most advanced form of cooperation which a third state can have without becoming the EU member.

If the specificity of promotion of human rights and democracy within the ENP framework in the pre-2014 era were to be assessed, one would notice that such promotion had often been high on rhetoric but slow in implementation. On the one hand, the position of the Brussels’ officials was that regardless of the Orange Revolution’s achievements, democracy in Ukraine remained immature: “Ukrainian domestic politics have been democratic since 2005, but also increasingly fragmented and turbulent. Government collapses in 2007 and 2008, and continuing political instability in 2009, have given the EU space to work on encouraging democratic consolidation but also profoundly complicate such efforts” (Youngs 2009, p. 904). The following events of the Tax Maidan and Euromaidan clearly illustrated the immaturity of Ukraine’s domestic context. On the other hand, the promotion of human rights and democracy was executed indirectly and stemmed from a high appreciation of the EU’s political legitimacy in Ukraine. Honestly speaking, the EU had always been more efficient in promoting economic, not political, cooperation, which can be explained by the core reasons behind the EU’s existence, numbers and specificity of lobbyists in Brussels, and attractiveness of business cooperation with Europe for the stakeholders in Kyiv.

1 Some of the ideas presented in the Conclusions were first formulated in the following article: Kushnir Ostap and Domaradzki Spasimir. 2013. “The EU-Ukraine Relations Through the Prism of Human Rights: Tymoshenko Case.” \textit{Myśl Ekonomiczna i Polityczna} 43, no. 4: 274–298.
For instance, foreign direct investments from the EU member states in Ukraine reached US$4016.8 million and constituted 71.3 per cent of all foreign investments in 2009. The commodity circulation between Ukraine and the EU member states exceeded €39 billion with a positive balance in favour of the EU. Moreover, the legislative innovations and updates of 2010–11, supported by the Ukrainian stakeholders, made the EU businesses feel more secure in the face of probable domestic instability. In a word, the EU’s economic activities, which virtually became a separate branch in the external governance, enjoyed exponential expansion in Ukraine in the post-USSR environment regardless of who the authorities in Kyiv were. This kind of expansion constituted a sharp contrast to the EU’s nebulous political and social activities.

The efficiency of the EU’s promotion of human rights and democracy has always been restricted or, better to say, limited by geopolitical competition with Russia, which desired to influence Ukraine in its turn. The EU was placed in a situation of two hard choices. Not reacting to the Kremlin’s policies could lead to the strengthening of Russia’s positions in Ukraine, antagonising social moods, and acquiring new leverage of pressure on Europe. Instead, an active implementation of institutional forms of cooperation with an emphasis on “hard” power could stimulate Russia to refer to the “gas diplomacy” which would also harm European interests. Therefore, Brussels tried to balance between political engagement and lenience towards the situation on the Union’s eastern borders; lenience was usually a preferred measure. Such a strategy remained operational up to the point when the Euromaidan erupted and Russia became the first foreign actor to resort to the “hard” power. The annexation of Crimea and fuelling the War in Donbas became the developments which the EU’s officials and stakeholders could no longer tolerate.

In a paradoxical situation of the 2010s, when the Ukrainian stakeholders aimed to preserve the post-Soviet corrupted practices at home, but simultaneously strived to increase the amounts of trade with the EU, the “soft” and “civilian” power instruments for promotion of democracy and human rights played an outstanding role. The lenience of Brussels towards the arbitrary political developments on the eastern border was actually regarded as a temporary and highly adjustable measure. The EU’s stakeholders expected the favourable context to gradually appear in Ukraine (i.e. improvement of good governance) and only after that the “hard” power institutional mechanisms, mainly network and market ones, would be utilised. This logic of actions proved to be functional in the first years after the Orange revolution. However, the brutality and magnitude of the Euromaidan, alongside the Russian decisive intervention, significantly shuffled expectations of the EU stakeholders for the favourable context in Ukraine and made them engage in the “crisis management” straightforwardly.
Conclusions

When discussing domestic factors which have always deteriorated implementation of the EU external governance in Ukraine, at least two should be particularly highlighted. The first is the fact that the decision-making in Kyiv has always been influenced by oligarchs; the business logic of the latter allowed for redesigning the legislature *ad hoc* if that could lead to facilitation of trade and increase in revenues. The second factor is the chaotic and immature nature of the Ukrainian civil society whose members overestimate the importance of promotion of human rights and democracy in the EU external governance. Apart from this, the people of Ukraine are inclined to believe populist and nationalist groups who promise to bring their state to Europe. The good news is that the civil society became slightly more mature after the Euromaidan.

At the moment, Ukraine remains of crucial importance for the EU’s and Russian foreign policies. On the one hand, Brussels would like Ukraine to become a reliable and predictable partner. This makes the Europeans emphasise the importance of democracy and human rights whilst projecting their “civilian” power and economic interests onto Ukraine. On the other hand, the Kremlin authorities continue trying to incorporate Ukraine in a kind of geopolitical subordination which sometimes limits the EU to the role of an observer. In a nutshell, contemporary relations of Ukraine with its major neighbours can be described as vagabonding of inexperienced semi-democratic elites in Kyiv between the EU with its discreet imposition of the good governance standards, and Russia with its attempts to establish a rigid “supervision” over the sovereign Ukraine. This vagabonding becomes even more transient in the light of the War on Donbas and often discordant pressure of the civil society.

For a drastic activation of the EU’s attention to the Ukraine’s domestic affairs, as it happened during the Orange Revolution and Euromaidan, and failed to happen during the Tax Maidan, the following preconditions should take place:

Primarily, a contextual decrease in the Kremlin’s influence on Ukraine’s policymaking. The calculations of the EU’s stakeholders should make it clear that the engagement in Ukraine’s affairs would not harm energy security of the member states, as well as would not critically limit the amounts of trade with the Russian Federation.

Secondly, an eruption of institutionalised, wide-scale, and government-backed violence, in particular an assault on the right to freedom of assembly in Ukraine. One of the reasons the EU’s mediators participated in the roundtables during the Orange Revolution and Euromaidan was the fact that the majority of citizens were interested in a lawful resolution of the crisis while the Ukrainian authorities used any means possible to play the situation in their favour. Moreover, an inclination of one of the political camps to use the police and army against
Initially peaceful protests – the protests which counted millions of people all over Ukraine – provided additional motivation for the EU’s stakeholders to engage. During the Tax Maidan, the protests were not that numerous and the force was used by the legitimately elected authorities without excessive violence.

Thirdly, the EU’s benefits from taking a pro-active stance. These benefits should exceed the ones from a lenient approach and continuation of a gradual promotion of good governance. The calculations of the EU’s stakeholders should reveal that supporting the civil society, in case it has a fair chance of success, would decrease risks of enterprise hijacking, corruption, selective tax policies, obstruction of businesses, and other factors which harm healthy economic relations. Not to mention that the EU would be able to make a one-time powerful boost to its security and legitimacy on the eastern borders.

Fourthly, the existence of trustworthy opposition or protest leaders in Ukraine. The EU’s stakeholders seek guarantees that their pro-active engagement will be appreciated and continued on the spot; the EU seeks appropriate leaders to communicate and cooperate with. The latter should meet several criteria, for instance, be efficient in political management, have untarnished reputation, enjoy popular support, and demonstrate respect for democratic values and the rule of law.

Fifthly, a global context. The EU’s stakeholders should have no doubts that their economic and political systems are resilient enough to allow them to focus on external activities, such as participation in roundtables in Ukraine. Brussels should have enough resources and confidence to coordinate the EU’s “crisis management” efforts.

Sixthly and finally, a clear threat to the EU’s security. Should the deterioration of situation in Ukraine trigger a serious risk of destabilisation of the intra-Union’s architecture or economic balance, Brussels would not hesitate to take a pro-active stance.

To visually summarise all of the above mentioned and other factors of the EU’s engagement into the three recent major Ukrainian protests, the following two tables have been created:
### Table 1. “Negative” factors of the EU’s pro-active engagement in Ukraine’s crises (i.e. those discouraging the EU stakeholders to act)

<table>
<thead>
<tr>
<th>Factors / crises</th>
<th>Orange Revolution</th>
<th>Tax Maidan</th>
<th>Euromaidan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Global economic crisis and recession</td>
<td></td>
<td>+</td>
<td></td>
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<tr>
<td>Economic slowdown inside the EU</td>
<td></td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>High financial cost of the EU’s “crisis management”</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>EU’s strategic intention to develop economic cooperation with Russia</td>
<td>+</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Jeopardy of the good governance in Ukraine (i.e. security threat for the EU)</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>High domestic legitimacy of Ukrainian authorities</td>
<td></td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Ukraine’s alignment to the multi-vector foreign policy</td>
<td></td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Strategic intention of Ukrainian authorities to prioritise economic cooperation with the EU</td>
<td></td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>High domestic legitimacy of strategic cooperation with Russia</td>
<td></td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>High efficiency of Russian lobby in Brussels</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Russia’s acceptance of the logic of political/revolutionary developments in Ukraine</td>
<td></td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Russia’s recognition of the legitimacy of the EU’s “civilian” power in Ukraine</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SUMMARY**

<table>
<thead>
<tr>
<th>4 out 12 factors in place</th>
<th>10 out 12 factors in place</th>
<th>2 out 12 factors in place</th>
</tr>
</thead>
</table>

**OUTCOME**

- **The EU pro-actively engaged**
- **The EU did not engage pro-actively**
- **The EU pro-actively engaged**

As one may see from Table 1, the Tax Maidan collects the most of discouraging factors. Therefore, due to the combination of unfavourable domestic and global circumstances, this protest could not attract enough attention from the EU.
**Table 2. “Positive” factors of the EU’s pro-active engagement in Ukraine’s crises**  
(i.e. those encouraging the EU stakeholders to act)

<table>
<thead>
<tr>
<th>Factors / crises</th>
<th>Orange Revolution</th>
<th>Tax Maidan</th>
<th>Euromaidan</th>
</tr>
</thead>
<tbody>
<tr>
<td>New prospects for the EU’s economic cooperation with Ukraine (i.e. DCFTA, UEUAA, or similar developments)</td>
<td></td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Jeopardy of the good governance in Ukraine (i.e. security threat for the EU)</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Trustworthiness and maturity of opposition and civic leaders in Ukraine</td>
<td>+</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>High protest moods among citizens of Ukraine</td>
<td>+</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>High scale of protests (nation-wide with &gt;10.000 on the Independence Square)</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>High levels of documented violence in Ukraine (including structural violence)</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>High efficiency of Ukrainian lobby in Brussels (including EMP’s and political actors serving as lobbyists)</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>High domestic legitimacy of the EU’s “civilian” and “soft” powers in Ukraine</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>EU’s fear for Ukraine to join the Russian geopolitical camp and thus reinforce Russian regional and global stances</td>
<td>+</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Russia’s documented application of “hard” power in Ukraine</td>
<td></td>
<td></td>
<td>+</td>
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</table>

**SUMMARY**

<table>
<thead>
<tr>
<th></th>
<th>8 out 10 factors in place</th>
<th>1 out 10 factors in place</th>
<th>10 out 10 factors in place</th>
</tr>
</thead>
<tbody>
<tr>
<td>OUTCOME</td>
<td>The EU pro-actively engaged</td>
<td>The EU did not engage pro-actively</td>
<td>The EU pro-actively engaged</td>
</tr>
</tbody>
</table>
Conclusions

As one may see from Table 2, the Orange Revolution and Euromaidan collect the most of the “positive” factors. No surprise that the EU’s stakeholders took decisive actions in 2003–04 and 2013–14.

To present everything in a nutshell, if the EU stakeholders encounter factors which are not listed in tables above, or encounter a combination of “negative” and “positive” factors which make no critical impact on the EU’s security and economic interests, they will tolerate Ukrainian social instabilities, preferring to promote democracy and human rights through the mechanisms of “soft” and “civilian” power.

In such a way, the hypothesis which this book puts forward has just been proven correct. The magnitude of protests and violation of human rights in Ukraine, especially the right to freedom of assembly, can trigger the EU’s proactive response. Under such scenario, the EU’s stakeholders unwillingly shift their economic interests to the background and engage in the “crisis management” to resolve the major threat to the Union’s security and interests on its eastern borders.

Sources used


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