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**ENHANCED CONDITIONALITY AND MONITORING  
CLAUSES IN THE EU-UKRAINE  
ASSOCIATION AGREEMENT**

The EU-Ukraine Association Agreement was signed between the EU and its Member States, of the one part, and Ukraine, of the other part to create a political and economic association between the Parties. The scope of the Agreement provides for its three basic features, namely comprehensiveness, complexity and conditionality.

Conditionality is a major tool, applied by the European Union, to promote the multifaceted transformation in partner states in terms of the accession negotiations and the European Neighborhood Policy. The foundation of conditionality is represented by the «external incentive model», which «follows the logic of consequences and is driven by the external rewards and sanctions that the EU adds to the cost-benefits calculations of the rule-adopting state» [2]. While this model was successful during the Central and Eastern European states accession to the EU, the case of the Eastern appeared to be different. Since 2009 the Eastern has been repeatedly criticized for the weakness of its conditionality, stemming from the lack of the membership incentive and high adoption cost in target states [2]. As the EU-Ukraine Association Agreement represents a new step in the evolution of the EU-Ukraine relations, the EU tried to solve the issue of the weak external incentives therein, providing for the enhanced conditionality and monitoring clauses. Thus, this paper aims to present the conditionality and monitoring provisions of the Agreement and assess their impact in view of the weak conditionality issue.

The EU-Ukraine Association Agreement contains two forms of conditionality, namely the more or less standard «common values conditionality» and the unique «market access conditionality». The standard conditionality clauses, found across the EU's international agreements, include the references to the core values (e.g., human rights, democracy, the rule of law) and procedures of an agreement's suspension in case of the core values' violation. The study of the EU association agreements, conducted by G. Van der Loo, P. Van Elsuwege and R. Petrov revealed two crucial peculiarities of the «common values conditionality» in the EU-Ukraine Association Agreement [3, p. 12]. First, the Art.6 of the Agreement, dedicated to the «dialogue and cooperation on domestic reform», includes references to democracy and human rights as the core principles of the reform [1, art. 6]. Second, the conditionality clauses include strong security-related elements, such as «promotion of the respect for the principles of sovereignty and territorial integrity, inviolability of borders, independence...» [1, art. 14]

The majority of the «market access» clauses are contained in Chapter IV of the Deep and Comprehensive Free Trade Agreement (hereinafter — DCFTA), an economic part of the EU-Ukraine Association Agreement. The process of legislative approximation, provided for in the DCFTA, is tightly linked to Ukraine's getting an extra access to the Internal Market of the EU. The timetable of the Ukraine's incorporation of the EU's access is contained in Annex III to the Agreement, and, in case Ukraine manages to conform to this timetable, it will get a chance to become a Party to the Agreement on Conformity Assessment and Acceptance of Industrial Products [1, art. 57]. Similar mechanisms of conditionality operate in the fields of Sanitary and Phytosanitary Measures, as well as Services, Establishment and Electronic Service and Public Procurement. As it is underlined by G. Van der Loo, P. Van Elsuwege and R. Petrov, the EU-Ukraine DCFTA legislative approximation clauses are to great extent similar to the ones, contained in the Agreement on the European Economic Area (hereinafter — EEA), concluded between the EU Member States and the members to the European Free Trade Association [3, p. 16]. Such «far-reaching parallelism» is believed to testify to the significance of the EU's hopes as regards Ukraine's integration into the Union's Internal Market [3, p. 16].

In terms of monitoring, the EU continues using progress reports as the crucial foundations of assessing Ukraine's fulfillment of its obligations under the Association Agreement. A new monitoring instrument, introduced by the Agreement, is «on the spot missions, with the participation of EU institutions, bodies and agencies, non-governmental bodies, supervisory authorities, independent experts, if needed» [1, art. 475(3)]. The outcomes of the monitoring are being analyzed by the joint bodies, formed under the auspices of the Association Agreement. However, the Association Council is the sole body that can decide whether there is a basis for further openings of the EU's markets for Ukrainian goods and services [1, art. 475(5)].

To sum up, the EU-Ukraine Association Agreement provides for the new conditionality and monitoring clauses that were not used by the EU either in its relations with Ukraine or other third countries. The gradual integration of Ukraine to the EU's Common Market serves as an important external incentive for the purposes of the legislative approximation process. The clauses' parallelism to those, contained in the EEA Agreement gives an opportunity to argue that the enhanced conditionality and monitoring clauses are introduced to facilitate the Ukraine's path to a more substantial integration with the EU markets.

#### *References*

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