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Policy Brief

Institute of World Policy, 2017

Mission Accomplishable? Audit of the EU efforts in reforming Ukraine's Civilian Security Sector

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The European Union Advisory Mission (EUAM), dispatched after the start of Russian aggression, has been present in Ukraine for over two years now. The upcoming extension of the mission's mandate is expected.

The Institute of World Policy (IWP) published its first assessment of the mission's activities in 2015. The EUAM was only beginning to take shape at the time and was still looking for its own niche in the reform of Ukraine's civilian security sector. However, the mission's partners agreed unanimously that strategic consultation alone would not work in Ukraine. Therefore, the IWP in 2015 recommended broadening of the mission's mandate to include practical projects and trainings.

The IWP focused again on the mission of the EUAM in 2016 with its project «Whole of Society Conflict Prevention and Peacebuilding» (WOSCAP), which was implemented under the framework of Horizon 2020 by a consortium of research institutions.

This policy brief provides the key findings from the paper «Assessing the EU's conflict prevention and peacebuilding interventions in Ukraine»¹, published as a part of WOSCAP. The paper was based on the interviews conducted from June to September 2016 with the EUAM, its partners in Ukraine, the Ministry of Foreign Affairs of Ukraine, the National Security and Defence Council of Ukraine and the EU Delegation to Ukraine. This brief is an abridged version of the original paper but it also contains additional information, which was collected by the author during interviews in Brussels in October 2016 and in January 2017.

This brief is a discussion paper and does not make a claim for a comprehensive and exhaustive assessment of EUAM. Rather it outlines some trends and observations which might be helpful to the EU in designing its policy towards Ukraine and for researchers studying the Common Security and Defence Policy (CSDP) of the EU and suggesting recommendations for its improvement.

¹ Litra L., Medynskiy I., and Zarembo K., (2016). Assessing the EU's conflict prevention and peacebuilding interventions in Ukraine. Deliverable 3.4. WOSCAP: Whole of Society Conflict Prevention and Peace-building. <http://www.woscap.eu/documents/131298403/>

* The author is grateful to all interlocutors who took their time for an interview. The arguments and analysis contained in this brief is the responsibility of the author alone.

2 YEARS OF THE EUAM: WHAT CHANGED?

The EU mission revised and specified its own priorities within the period of its operation in Ukraine. Ukraine's criticism of the purely advisory functions of the mission was noted in Brussels. The Member States demonstrated surprising flexibility in reviewing the mandate of the mission not after the usual two years, typical for the CSDP missions, but after one year.² The altered operational plan allowed it to implement the projects and conduct training.

Besides, the Mission also added five priorities: delineation of competences, community policing, public order, criminal investigation and human-resource management³. In the implementation of each of these priorities special emphasis was placed on «cross-cutting issues»: good governance, anticorruption and human rights and gender.⁴ In addition, the chief of mission was also changed: Kęstutis Lančinskas, chief of the Vilnius Police (2009-2016) took over from Kalman Mizsei who left at the end of 2015.

There EUAM activities are diverse and include advice in drafting key documents and legislation, material and technical assistance, the coordination of donor assistance to Ukraine in the area of law enforcement agencies reform and even fundraising for the implementation of reforms. The EUAM coordinates its activities with the EU Delegation to Ukraine and with the Support Group for Ukraine. The mission's allocated budget was increased every year; for the year December 1, 2016 to November 30, 2017 it was 20.8 million Euros.

Table 1. The EUAM in numbers

Areas of operations	<ul style="list-style-type: none"> • <i>Strategic advice on civilian security sector reform to develop better civilian security sector strategies</i> • <i>Support the implementation of reforms with hands-on advice, training, projects</i> • <i>Cooperation and coordination to ensure that reform efforts are coordinated by Ukrainian and international actors</i>
Geographical location	Kyiv (headquarters), Lviv and Kharkiv (regional presences since May 2016)
Staff	Over 200 people ⁵
The budget (EUR, 2014-2017)	54 250 000

² The interview with a representative of the European External Action Service, July 2016

³ EUAM Ukraine (2017). 5 priorities mission. <http://www.euam-ukraine.eu/ua/what-we-do/5-priorities>

⁴ Ibid.

⁵ The international staff of the mission staff come from the Member States (except Belgium, Croatia, Cyprus, Luxembourg and Malta), Norway and Switzerland. The most numerous are the representatives of Germany and Sweden.

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The key mission's partners are the Ministry of Internal Affairs of Ukraine, the National Police, the Prosecutor General's Office, the National Anti-Corruption Bureau, the Specialized Anti-Corruption Prosecutor's Office, the Security Service of Ukraine, the State Border Service, the State Fiscal Service⁶. The mission also works with the National Agency for Prevention of Corruption, the National Agency for Asset Recovery, the Ministry of Justice and the Parliament Committees (the Committee on Legislative Support of Law Enforcement; the Committee on Legal Policy and Justice; the Committee on Preventing and Combating Corruption; the Committee on Human Rights, National Minorities and International Relations, etc.).

In general, the mission's beneficiaries are positive about their cooperation with the EUAM. The interviewed local partners of the mission particularly emphasized:

- the enhanced and more focused cooperation with the mission after the change of the mandate in 2015. This could also be related to the fact that the mission had reached its full operational capability and was ready to engage fully starting in autumn 2015, which coincided with the mandate review;
- the role of the mission as the channel of communication between Brussels and the beneficiary institutions;
- the high level of EUAM professionalism and expertise of the mission's advisors.

Obviously, the cooperation between the mission and its partners in Ukraine has not been devoid of problems and controversy. The level of cooperation intensity and productivity for each partner was different.

Table 2, «EUAM's key achievements in 2014-2016» allows to track the difference in where the mission made the greatest effort and where it receives the best evaluation by the partner. Thus, if the measurement yardstick for the evaluation of the mission is the perception of the local partner, then the mission's «success story» would be the cooperation with the State Border Service and the National Anti-Corruption Bureau. However, some partners, in which the mission invested much effort, felt that the mission provided them with strategic advice but did not make strategic impact.

The assessments of the mission by the partners varied. While some agencies reported full satisfaction with the mission, others were more reserved and opined that the mission's potential was greater than the actual level of cooperation. Some partners also noted that the mission did not take the Russian-Ukrainian conflict into account both in the development of strategic documents and in practical cooperation, offering advice which would rather suit a country at peace.

In turn, the mission criticised Ukrainian institutions for the absence of a holistic approach to the security sector.

⁶ EUAM Ukraine (2017). Civilian Security Sector. <http://www.euam-ukraine.eu/en/what-we-do/civilian-security-sector>, accessed 28.02.2017.

Table 2⁷ EUAM's key achievements in 2014-2016

Target partner institution in Ukraine	Assistance to drafting strategic documents and legislation, projects and trainings
Civilian Security Sector at large	<ul style="list-style-type: none"> • Strategic advice on a range of concept papers and strategies, such as the 'Strategy of the reform of the internal affairs agencies', amendment to the Criminal Procedure Code on delineation of investigative powers, the draft law "On the National Security", the draft law on freedom of assembly, and on the National Human Rights Strategy and Action Plan; • Facilitating study visits of the Ukrainian partners to the EU Member States (Poland, Estonia, Finland, Romania, the Netherlands, Slovenia, Great Britain) for best practice exchange
The National Police	<ul style="list-style-type: none"> • Assisting in the preparation of the Law on National Police • Assisting in the preparation of 'National Police Reform Concept 2016-2017' • Training for Kyiv Patrol Police on crowd management in cooperation with the European Gendarmerie Force • Support to the opening of the citizen's reception hall of Kyiv Patrol Police • Development of a response police model for rural areas and small towns (supplementary to the patrol police in the big cities) that was first implemented in Sambir (Lviv region) in 2015 before being rolled out to eight police stations in Kyiv, Lviv and Kharkiv regions; drafting curricula on community policing training • Facilitation of joint working groups to discuss concepts and strategies of human resources, criminal investigations and community policing • Training in leadership development for heads of regional chiefs of police patrol; • Holding a series of pilot community police workshops for supervisors of Kyiv City Patrol Police;

⁷ Source: author's compilation based on the open (EUAM's website <http://www.euam-ukraine.eu/en/what-we-do/progress-in-reform>) and off the record data, provided by the EUAM to the author. The data is accurate as of summer 2016.

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- Public order training for the new specialised public order sub-branch of Ukrainian police named 'Kord';
- Training on the rights of peaceful assembly for police officers in Lviv and Kharkiv;
- Introducing the concept of community policing to Ukraine's SSR and its implementation through provision of strategic advice and training;
- Acting as an observer in the re-attestation process of the Ukrainian police, whereby officers need to pass exams in order to meet adequate professional standards

Ministry of Justice

Penitentiary functions transferred to MoJ – contribution to legislative framework and development of a roadmap for reform

Prosecutor's General Office

- Support on a range of issues including integrity checks, inspection issues and through a co-location agreement
- Observing re-selection process for local prosecutors and followed up with training

National Anti-Corruption Bureau, Special Anti-Corruption Prosecutor's Office and National Anti-Corruption Prevention Agency

Support to the establishment by acting as observers in the selection panels that chose heads and deputy heads of those institutions

State Border Guard Service of Ukraine

Development of Integrated Border Management concept for 2016-2020

Security Service of Ukraine

Development of the SSU reform concept as a part of the International Advisory Group to SSU

The reason for the more salient differences in viewpoints between the EUAM and Ukraine lie in Brussels, since the European Council defines the limits of the possible for the EUAM. The vision of Kyiv and Brussels diverged on certain issues more than the views of the mission and its Ukrainian partners.

THE POLITICAL MISSION WITH TECHNICAL POWERS

The EUAM is a special instrument of the Common Foreign and Security Policy of the European Union. Unlike the EU projects like TWINNING, which are implemented by the European Commission, a CSDP mission requires approval by all Member States. Thus, the EU views the CSDP as a high profile political instrument, while it considers European Commission projects as technical assistance. However, the political nature of the tool narrows the room for manoeuvres — any change in the activities of CSDP missions requires the approval of all Member States, with the result typically amounting to the lowest common denominator. The EUAM, as the «brainchild» of the member states and as a special tool for the help to Ukraine, thus is monitored by Brussels with particular attention.

However, in Ukraine many are not aware of the EUAM's institutional nuances as well as of the fact that dispatching a CSDP mission to a country, which is in a state of armed conflict, is an exceptional gesture of support from the EU. The EUAM is working in a crowded environment of multiple donors and partners in security sector reform in Ukraine; some beneficiaries perceive the mission as simply another Western project, rather than a politically significant CSDP mission. However, the mission itself makes an effort to keep a low profile.

Since May 2016 the mission operates from offices in Lviv and Kharkiv. The opening of the regional branches was a significant concession for the Member States, since initially some Member States had security concerns. In fact, the regional offices were opened upon condition that they were going to perform technical functions only. The issue of the regional offices so sensitive for some Member States, that they insisted that the regional branches of the EUAM must be called «presences», rather than «offices», with the former term being more politically neutral.

In addition, the mission has avoided political statements and public criticism of the reform process in Ukraine. As the representative of the European External Action Service explained to the author, the maintenance of a low profile by EUAM is due to the fact that its responsibility is technical assistance, while the EU Delegation in Ukraine is responsible for the public political aspects of the assistance. Such an «informal division of labor» avoids the duplication and confusion of responsibilities. However, such a separation of responsibilities also deprives the EUAM of its own public voice even when it disapproves of the actions of its Ukrainian partners.

The EUAM and the EU Delegation in Ukraine are to a large extent responsible for the short term perception and long term reputation of the EU in Ukraine, and poor publicity is rather harmful for the image of the EU as well as for the progress in reforms. A large percent of Ukrainians (30,12%) expect more pressure on the Ukrainian authorities from the EU as the key measure out of all potential options of the EU assistance⁸. In addition, the reform of the law enforcement agencies is a priority reform for the Ukrainians. Public advocacy of the reforms by the EUAM would make the Ukrainian civil society its natural partner and would create a synergy effect in pressure, advocacy and monitoring of the reform process. However, when the mission is working behind the scenes, the civil society can neither evaluate it nor create a public discussion around it.

⁸ Solodkyy S., Sharlay V. (2015) How could the EU accelerate reforms in Ukraine? Institute of World Policy. <http://iwp.org.ua/eng/public/1838.html>

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THE EUAM AND THE CONFLICT IN THE EAST: PARALLEL REALITIES

It seems that no one in Ukraine doubts that the EUAM will work exclusively on the civilian, rather than military, security issues, and will not in any way be involved in the settlement of the conflict with Russia. However, the problem is not that the mission is not involved in the conflict settlement — it works as if Ukraine lives in peaceful times, not in a war with a neighbouring state.

Failure to take into consideration the Ukrainian approach to security matters may create unexpected problems. In wartime, it is often clearly impossible to create clear distinctions between civilian and military. For example, both the State Border Service and the State Security Service have overlapping civilian and military responsibilities such as intelligence collection, anti-terrorist activities, etc. In its turn EUAM was unable to assist SSU in the creation of a regional anti-terrorist centre.

In addition, the priorities of the mission and of their Ukrainian partners in security sector reform do not always match. Gender issues are a «cross-cutting issue» for the EUAM, but are not a top priority in security sector reform in Ukraine according to the partner institutions. When the author pointed this discrepancy out to one of the European officials, they assured her that the renewed mandate of the EUAM will have an even greater focus on gender issues in the future.⁹

However, it should be emphasized that the mission's policy is a result of a broader approach in Brussels, entitled «security sector reform» (SSR). The SSR is aimed at reorienting the government's security policy from the security of a state towards the security of a citizen (human security). This approach has gained popularity in the West towards the developing countries since late 1990s, and is applied for three main reasons: to increase effectiveness of development assistance; for improvement of civil-military relations and for the introduction of civilian oversight in post-authoritarian states, particularly in Central and Eastern Europe after the fall of the «Iron Curtain» and in the reconstruction of post-conflict nations.¹⁰ The SSR does not envisage assistance within the conflict, moreover, according to some researchers, the reform of the security sector during the conflict is very difficult or altogether impossible.¹¹

It certainly does not mean, that Ukraine doesn't have to reform its security sector because of being in a conflict — on the contrary. However, the present conditions for reform in Ukraine, simply put, do not match the conditions which the Central and the Eastern European candidates had while preparing for NATO membership. The situation in Ukraine can rather be illustrated by the analogy of American General David Petraeus, who described SSR process “as repairing an aircraft while in flight and while being shot at”.¹²

⁹ The interview with a representative of the European External Action Service, January 2017

¹⁰ Robert Egnell & Peter Haldén (2009) Laudable, ahistorical and overambitious: security sector reform meets state formation theory., *Conflict, Security & Development*, 9:1, 27-54.

¹¹ Wulf H. (2004). Security Sector Reform in Developing and Transitional Countries, p. 14. In: Clem McCartney, Martina Fischer, Oliver Wils (eds.) *Security Sector Reform: Potentials and Challenges for Conflict Transformation*. Berghof Handbook Dialogue Series.

¹² Jayasundara-Smits S. & Schirch L. (2016) EU and Security Sector Reform: Tilting at Windmills? Global Partnership for the Prevention of Armed Conflict. P. 4. Deliverable 2.6. WOSCAP: Whole of Society Conflict Prevention and Peace-building. <http://www.woscap.eu/documents/131298403/131553554/Scoping+Study+-+SSR.pdf/6f83ac77-ef91-401c-98cc-60073c58942c>

At the same time, one must remember that EUAM was invited to Ukraine in the aftermath of Russian aggression and not as a SSR consultant in peaceful times. The mission's (and Member States) reluctance to recognise Ukrainian realities may negatively affect the efficiency of the cooperation with its local partners.

A window of opportunity may have appeared for a change. In July 2016, the Office of the High Representative together with the European Commission prepared a joint communication to the European Parliament and to the European Council entitled «Elements for an EU-wide strategic framework to support security sector reform» — the first document of its kind that defines a common approach towards SSR for all EU institutions. The document stipulates that the new framework «applies in all contexts, not only in conflict and post-conflict situations, and is sufficiently broad to allow adaptation to the needs of each specific situation.»¹³ Also, the document supports basing the SSR on the security needs of key demographic groups.¹⁴ In light of this new framework, conducting an opinion poll among the citizens of Ukraine about the perceived threats and needs in security provision could dot the i's in determining the focus and priorities of the mission.

¹³ European Commission, High Representative of the Union for Foreign Affairs and Security Policy (2016). Elements for an EU-wide strategic framework to support security sector reform. Joint Communication to the European Parliament and the Council. Strasbourg, 5.7.2016. P. 4.

¹⁴ European Commission, High Representative of the Union for Foreign Affairs and Security Policy (2016). Elements for an EU-wide strategic framework to support security sector reform. Joint Communication to the European Parliament and the Council. Strasbourg, 5.7.2016. P. 7.

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THE RECOMMENDATIONS:

1. The Member States should be flexible in adaptation of the CSDP mission to the specific country context. Ukraine should not only be involved in the consultations but in approving the operational plan of the mission. The exclusion of Ukraine from this stage contradicts the «local ownership» policy promoted by the EU.
2. The citizens of Ukraine are the key beneficiaries of law enforcement agencies and security sector reform in Ukraine in general. The mission should take into the account the public opinion in Ukraine in defining its own goals and objectives. An opinion poll should be commissioned to determine the security threats and needs as Ukraine's citizens understand them and the results should be considered in planning of the mission's priorities.
3. The network of the regional presences should be expanded to other sensitive security areas. Taking reforms to the regions should be the mission's priority.
4. «The culture of a secrecy» around the activity of the CSDP missions in general and the EUAM in particular stand in the way of the objective and public evaluation of their activities. With the support of the European External Action Service, EU and Ukrainian think tanks should jointly develop the evaluation methodology of EUAM and submit reports based on it for the strategic review of its mandate.
5. EUAM's public profile should be raised and cooperation with civil society should be intensified. The probability of the reform's success in Ukraine will increase if the mission and the civil society act as «a united front» in the field of security sector reform.