

# Organizational and legal mechanism Ukraine's cooperation with NATO: developments and disadvantages

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## Abstract

The study was conducted on the basis of the contradictory nature of Ukraine's cooperation with the North Atlantic Treaty Organization, established in 1992. On the one hand, Ukraine has consistently stated its intention to integrate into NATO as a full member. The country has formed an organizational and legal mechanism for cooperation with NATO. There is an indefinite Charter on a Distinctive Partnership between Ukraine and NATO. Intentions for full membership in the Alliance are included in the Constitution of Ukraine and national security legislation. The norm of cooperation between the parties is the development and signing of various programs for cooperation in security, defense, education and other areas. The majority of Ukrainian society supports the state's intention to join NATO. On the other hand, despite long-term cooperation with the Alliance, Ukraine has not received an Action Plan for NATO membership, which makes the ultimate goal of integration unattainable. The main obstacle to Ukraine's Euro-Atlantic integration has been and remains the insufficient pace of reforming the country's political, economic, judicial and other basic systems, as well as the security and defense sector. The overall result of the study is to emphasize the attention of the Ukrainian side to the need to accelerate urgent state reforms, update the existing organizational and legal mechanism of cooperation between Ukraine and NATO, bringing all components of the security and defense sector to Western standards. The conclusions point to the main contradiction in the practical support of Ukraine's Euro-Atlantic movement: the national state-building elite did not ensure the continuity of the political course on Euro-Atlantic integration and the accumulation of constructivism along the way. The hypothesis of the study was to prove the existence of a "medium" level of cooperation between Ukraine and NATO on the basis of the existing organizational and legal mechanism, which does not yet allow to raise the issue of Ukrainian integration into the Alliance on a full basis. The hypothesis is generally proven. The main research methods were historical, institutional, structural and functional, activity, comparative, regulatory. It is considered appropriate to further monitor the state, problems of functioning, prospects for the development of the organizational and legal mechanism of Ukraine's cooperation with NATO with the formulation of appropriate recommendations to improve its effectiveness.

**Key words:** public administration, organizational and legal mechanism, NATO, Alliance, integration.

## Introduction

The mechanism of public administration in general should be presented as a set of ways to resolve the contradictions of a particular phenomenon or process in public

administration, consistent implementation of actions based on fundamental management principles, goal orientation and functional activities using appropriate forms and methods

of management. This mechanism reflects the relationship of phenomena, processes, actions and activities. Their result is the coordination of interests, definition of goals, development of

solutions and their implementation with the help of state resources (political power, state apparatus, means and methods of governance).

## **Results and discussion**

In the mechanism of public administration, as a rule, there are two main blocks – the formation of management decisions and its implementation. The first block combines the needs, interests, contradictions, goals, will, motives, incentives of objects and subjects of a particular management cycle, the second – management decisions proposed by the subject, its management actions, achieved results that affect the behavior of the object. In this way – from awareness of needs to production of the corresponding decision – the functions of public administration are being implemented.

The set of elements and the order of functioning of the mechanism of public administration are determined by the purpose, means of influencing the object, the links between the elements of the management system, as well as the availability of appropriate resources and capabilities. Mandatory components of the mechanism of public administration are its target orientation, principles, functions, methods, internally and externally oriented information exchanges, as well as management technologies and technical means necessary for their practical implementation.

From the set of mechanisms of public administration, an epistemologically winning step is the selection as separate units of analysis of their organizational and legal varieties, each of which has its own managerial specifics. The combination of organizational and legal mechanisms, being consistent in management theory and practice, forms an integrated organizational and legal mechanism. The combined management capacity of this mechanism is more influential and effective, based on the integration of two separate potentials (organizational and legal) into a single structure. At the same time, there are direct and inverse subordinate dependencies:

organizational forms of the management mechanism are able to determine its legal forms, and legal forms are quite capable of stimulating the emergence of new organizational forms of transformation of the social environment. However, in most cases, the scientific community use the term “organizational and legal mechanism”, and not vice versa.

In the modern scientific literature, the essence and content of organizational and legal mechanisms are usually considered in the form of: a set of interrelated principles, forms, methods, procedures, management tools, organizational structures that provide it (organizational part of the mechanism), as well as legal norms and mechanisms legal regulation, which operate on the basis of constitutional and legal norms adopted in the state (legal part of the mechanism).

On this basis, organizational and legal mechanism of cooperation between Ukraine and the North Atlantic Treaty Organization (NATO) can be defined as a set of interrelated principles, forms, methods, procedures, tools, plans, intentions of state structures united by Ukraine's Euro-Atlantic integration and constitutional, other normative-legal norms, power mechanisms of legal regulation, which practically ensure the Euro-Atlantic integration process with the aim of the state gaining full membership in the Alliance.

To investigate the organizational and legal mechanism of Ukraine's cooperation with NATO, it is necessary to clarify the essence, content, structure, dynamic features of the development of its elements, their interrelationships, and the impact on the internal and external environment.

In the structure of the first block of this mechanism it is necessary to define (comprehend) a number of social and

psychological formations that develop the processes of formation and implementation of Ukraine's Euro-Atlantic strategy. It is about the needs, interests, goals, motives, incentives of large social groups (parts of Ukrainian society) which approve of the pro-European and pro-Atlantic orientation of Ukraine. The strong-willed component of achieving the set goals of both the general public and the power structures that ensure the implementation of Ukraine's Euro-Atlantic intentions should be pointed out separately. It is advisable to highlight the value aspect of Euro-Atlantic aspirations of society and the state, individual and collective ways of identifying Ukrainians with the European community of peoples and the supranational institutions created by them (including the North Atlantic Treaty Organization).

It is also important to reveal the social and psychological indicators (interests, goals, motives, incentives, orientations) of the part of the population of Ukraine that opposes Euro-Atlantic integration, as well as to identify trends in quantitative changes among NATO dislikes. This cannot be done without taking into account the factors of external influence on Ukraine. First of all, we are talking about the Russian Federation, which is trying to interfere with the Euro-Atlantic advance of Ukraine in an armed force based on the tools of a hybrid war. In this context, it is extremely important to highlight the phenomenon of information (information-psychological) wars, which are initiated by the current Russian leadership against Ukraine in order to weaken (destroy) Euro-Atlantic sentiment of the population of all regions without exception, starting from the eastern and southern. Given the management technologies and technical means used by Russia against Ukraine in terms of hybrid war, it is necessary to distinguish the media and social network resources of the Russian Federation, which are aimed at destroying not only the Euro-Atlantic intentions of the Ukrainian state and society, but also the complete denial of Ukrainian state-building abilities and national identity.

In the structure of the second block of the

organizational and legal mechanism of Ukraine's cooperation with the North Atlantic Treaty Organization, the main focus should be on NATO-oriented management decisions that demonstrate the country's commitment to previously proclaimed Euro-Atlantic aspirations and reveal mechanisms for their practical support. It is important to detail the activities of the head of state (President of Ukraine), as well as constitutional authorities (Verkhovna Rada of Ukraine, Cabinet of Ministers of Ukraine), executive authorities (Ministry of Foreign Affairs of Ukraine, Ministry of Defense of Ukraine) on the development and adoption of specific documents (programs) on the issues of Euro-Atlantic integration of the state.

*The activities of the Presidents of Ukraine on cooperation between Ukraine and NATO* should be differentiated according to the time spent in this position of specific politicians. In our opinion, it is expedient to single out six such periods, starting from the moment of gaining independence in 1991 and the introduction of the post of the President of Ukraine:

President of Ukraine L. Kravchuk (1991-1994) – the period of the beginning of cooperation of Ukraine with the North Atlantic Treaty Organization;

President of Ukraine L. Kuchma (1994-2005) – the period of deepening Ukraine's cooperation with NATO;

President of Ukraine V. Yushchenko (2005-2010) – the period of slowing down in Ukraine's cooperation with the Alliance;

President of Ukraine V. Yanukovich (2010-2014) – the period of stopping (braking) Ukraine's cooperation with the North Atlantic Treaty Organization;

President of Ukraine P. Poroshenko (2014-2019) – the period of accelerating Ukraine's cooperation with NATO with the constitutional consolidation of its future membership in NATO;

President of Ukraine V. Zelensky (after 2019) – the period of continuation of Ukraine's cooperation with the Alliance.

All six of these periods differ in the depth of planning and the scale of Ukraine's interaction with the Alliance, the creation of organizational and legal mechanisms for cooperation between

the parties, as well as the results achieved.

The key events with the participation of the heads of the Ukrainian state in the context of Ukraine's cooperation with NATO were the following.

Period of holding the post of President of Ukraine L. Kravchuk. In 1992, NATO Secretary General M. Verner visited Ukraine for the first time at the invitation of the Ukrainian side. Following the visit, Ukraine joined the North Atlantic Cooperation Council (NACC, now – Euro-Atlantic Partnership Council, EAPC). In the same year, the Embassy of Ukraine was opened in Brussels. In 1994, Ukraine was the first post-Soviet country to sign the NATO “Partnership for Peace” Framework Document (PfP) and handed over the PfP Presentation Document to Alliance Headquarters.

Period of holding the post of President of Ukraine L. Kuchma. In 1995, the parties signed the first Individual Partnership Program (IPP) between Ukraine and NATO. In 1996, it was necessary to establish the position of Chief Coordinator for Ukraine's cooperation with NATO and the Western European Union in the military field. On July 9, 1997, an extremely important event took place regarding the Euro-Atlantic prospects of Ukraine: The President of Ukraine, the Secretary General of NATO and the leaders of the 16 Allies (at that time) signed the Charter on a Distinctive Partnership between Ukraine and the North Atlantic Treaty Organization during the Madrid Summit. In 2001, the State Program of Ukraine's Cooperation with NATO for 2001-2004 was adopted, which began the tradition of annually signing such programs. In the same year, the Regulation on National Coordinators of Ukraine's Cooperation with NATO was approved. The 2003 was marked by the introduction of the position of the Commissioner of Ukraine for European and Euro-Atlantic Integration. In addition, at the same time, the National Center for Euro-Atlantic Integration was established as an advisory body under the President of Ukraine.

Period of holding the post of President of Ukraine V. Yushchenko. In 2005, Ukraine, as a member of the PfP Program re-emphasized its

political aspirations to become a full member of NATO. The Congress of Ukrainian Nationalists has decided to start a dialogue on this issue. In the Military Doctrine of Ukraine of April 21, 2005 was emphasized: “Ukraine is preparing for full membership in NATO and the EU”. In 2006, new bodies were established to accelerate Ukraine's Euro-Atlantic integration process: The National System for Coordination of Ukraine's Cooperation with NATO, the Interdepartmental Commission on Ukraine's Preparation for NATO Accession as an advisory body to the President of Ukraine. On 3 April 2008, the Bucharest Summit of the NATO North Atlantic Council decided at the level of Heads of State that Ukraine and Georgia would join the Alliance in the future. At the same time, the exact dates of entry were not named. In order to partially correct the situation 21.08. In 2009, the Declaration on Amendments to the Charter on a Special Partnership between Ukraine and NATO was signed, which expanded the powers of the Congress of Ukrainian Nationalists.

Period of holding the post of President of Ukraine V. Yanukovich. In April 2010, the President liquidated the previously established advisory bodies – the Interdepartmental Commission for Ukraine's Preparation for NATO Accession and the National Center for Euro-Atlantic Integration. The provisions on Euro-Atlantic intentions of Ukraine were removed from the current legislation. The propaganda cover for the “reversal of Ukraine towards Russia”, initiated by the fourth head of state, was built on the basis of the Decree of the President of Ukraine dated 18.11.2010 “On ensuring the continuation of Ukraine's constructive partnership with the North Atlantic Treaty Organization”. As a result, the Euro-Atlantic theme in the state-building discourse of Ukraine has been significantly weakened (though not completely removed).

Period of holding the post of President of Ukraine P. Poroshenko. First of all, the fifth head of the Ukrainian state, using the powers of the subject of the legislative initiative, submitted to the Verkhovna Rada of Ukraine a number of bills (including amendments to the Constitution of Ukraine), which not only revived Ukraine's Euro-

Atlantic integration process but also took it into practice (they will be discussed below).

Euro-Atlantic integration was officially proclaimed as a “fundamental national interest of Ukraine”. In the Preamble to the Constitution sounded the provisions on the “irreversibility of the European and Euro-Atlantic course of Ukraine”. The constitutional powers of the Verkhovna Rada of Ukraine, the President of Ukraine, and the Cabinet of Ministers of Ukraine were supplemented by a clause on “Ukraine's full membership in the North Atlantic Treaty Organization”. “Acquisition of full membership of Ukraine in the North Atlantic Treaty Organization”. In addition, in 2017, the Concept of Improving Public Awareness of Ukraine's Euro-Atlantic Integration for 2017-2020 was introduced.

Period of holding the post of President of Ukraine V. Zelensky. On October 30, 2019, the President approved a new Regulation on the Commission on Euro-Atlantic Integration of Ukraine and updated its composition. On February 5, 2020, the Ukrainian government approved the Annual National Program under the auspices of the NATO-Ukraine Commission for 2020 (ANP-2020). Ukraine has officially applied to participate in NATO's Enhanced Opportunities Program (EOP) and has become a member of it. In 2021, the President of Ukraine approved a new Regulation on Annual National Programs under the auspices of the NATO-Ukraine Commission and approved the next ANP for 2021.

*The activities of the Verkhovna Rada of Ukraine on cooperation between Ukraine and NATO.* The first parliamentary document in the field of Ukraine's cooperation with NATO was the Resolution of the Verkhovna Rada of Ukraine of November 21, 2002. “On the recommendations of the parliamentary hearings on relations and cooperation between Ukraine and NATO”. In this document, the Ukrainian parliament for the first time expressed its support for Ukraine's course of full membership in the North Atlantic Treaty Organization.

The Law of Ukraine dated 19.06.2003. “On the Fundamentals of National Security of

Ukraine” included “Ukraine's integration into the European political, economic, legal space with an aim of joining the European Union and the Euro-Atlantic security space with an aim of joining the North Atlantic Treaty Organization” to the priorities of Ukraine's national interests.

Reverse motion vector in the direction of “NATO” has demonstrated the Law of Ukraine dated 01.07.2010. “On the principles of domestic and foreign policy of Ukraine”. The document identified the non-aligned status of the Ukrainian state, making it impossible to continue its European integration. On the basis of this Law, the relevant amendments were made to the current legislation (Particularly, from the Law of Ukraine dated 19.06.2003. “On the Fundamentals of National Security of Ukraine” the goal of becoming a member of the North Atlantic Treaty Organization was removed).

On 23.12.2014 the Verkhovna Rada of Ukraine, at the proposal of the President of Ukraine, adopted the Law of Ukraine “On Amendments to Certain Laws of Ukraine Concerning Ukraine's Refusal to Implement a Non-Aligned Policy”. According to this Law, in Art. 6 of the Law of Ukraine “On Fundamentals of National Security of Ukraine” dated 10.06.2003, the provision that among the priorities of national interest is the integration of Ukraine into the European political, economic, legal space with the aim of joining the European Union and Euro-Atlantic security space for the purpose of NATO membership has been restored.

The Law of Ukraine “On National Security of Ukraine” dated 21.06.2018 strengthened the legal fixation of the Euro-Atlantic course of the state. In particular, the fundamental national interest of Ukraine was defined as “Ukraine's integration into the European political, economic, security, legal space, membership in the European Union and the North Atlantic Treaty Organization”. Ukraine's intention to integrate Euro-Atlantic integration has been strengthened by classifying the Euro-Atlantic vector as a “fundamental national interest” in this Law.

On 07.02.2019, the provisions on Ukraine's

Euro-Atlantic course were introduced into the Basic Law of Ukraine for the first time in the conditions of its independent state and political development. The same Law excluded a clause from paragraph 14 of Section XV "Transitional Provisions" of the Constitution of Ukraine, which provided for the use of existing military bases on the territory of Ukraine for the temporary stay of foreign military formations on lease in accordance with international agreements.

Parliamentary attention to the continuation of Ukraine's Euro-Atlantic course was continued by the Law of Ukraine dated 03.12.2019 "On the Statement of the Verkhovna Rada of Ukraine on priority steps to ensure Euro-Atlantic Integration of Ukraine – acquisition of full membership in the North Atlantic Treaty Organization". In its statement, the Verkhovna Rada of Ukraine reminded that today Ukraine is actually the eastern border of NATO and that its dedication to repelling Russian aggression makes a significant contribution to guaranteeing peace and security throughout the transatlantic space. The Ukrainian Parliament announced that supporting Ukraine's integration into NATO and providing our country with an Alliance Membership Action Plan (MAP) is the most effective and verifiable investment in peace and security, another step towards strengthening the international security system. Legislative body of Ukraine has called on the parliaments of NATO member states to implement paragraph 23 of the Declaration of the Bucharest NATO Summit 2008 to apply to foreign ministers of their countries with a proposal to speed up the provision of the MAP to Ukraine.

Based on these and other documents, a mechanism of parliamentary cooperation between Ukraine and NATO was formed. Its components are: a) legislative support for issues related to relations between Ukraine and NATO; b) Cooperation of the Verkhovna Rada of Ukraine with the NATO Parliamentary Assembly (represented in the NATO Parliamentary Assembly by the Permanent Delegation of the Verkhovna Rada, which has had the status of an Associate Member since May 1992); c) parliamentary control over the implementation of legislative decisions on Ukraine's integration

into the Euro-Atlantic security space, achievement of the criteria necessary for NATO membership.

*The activity of the Cabinet of Ministers of Ukraine, other executive agencies on cooperation between Ukraine and NATO* should be considered on the basis of a number of state programs, the implementation of which was (is) entrusted primarily to the executive agencies, especially the Ministry of Defense and the Ministry of Foreign Affairs. The time frame of milestones in this area become the following programs.

2001: State Program of Ukraine's Cooperation with NATO for 2001-2004;

2002: Ukraine – NATO Action Plan. The document identified Ukraine's strategic goals and priorities for achieving full integration into Euro-Atlantic security structures and for creating a strategic framework for Ukraine's current and future cooperation with NATO in accordance with the Charter on a Distinctive Partnership.

2003-2009: Ukraine annually presented Target Plans to achieve the principles and objectives set out in the Action Plan. The plans were formed on the basis of proposals from ministries and agencies and contained specific objectives in various areas (domestic policy, foreign policy, security and defense reform, public information, information security, and economic and legal issues).

2004: State program of informing the public on the issues of Euro-Atlantic integration of Ukraine for 2004-2007, as well as the State program of training, retraining and advanced training of specialists in the field of European and Euro-Atlantic integration of Ukraine;

2008: State target program of informing the public on the issues of Euro-Atlantic integration of Ukraine for 2008-2011.

Since 2009, the parties have replaced the annual target plans with annual national programs of cooperation between Ukraine and NATO.

2009-2010: Annual national training programs of Ukraine for membership in the North Atlantic Treaty Organization.

2011-2021: Annual National NATO-Ukraine

Cooperation Programs (Annual National Programs under the auspices of the NATO-

Ukraine Commission) except 2014.

## Conclusions

The practical cooperation between Ukraine and NATO, begun in 1992, actually coincides with the state and its political independence. Over the years, there was 5 waves of enlargement of the North Atlantic Treaty Organization (in 1999, 2004, 2009, 2017, 2020). The Alliance, being inherently flexible political-military structure increased by almost half (from 16 member states to 30). Ukraine was invited to this international organization after fulfilling a number of mandatory conditions of domestic and foreign policy significance. This was most pronounced in 2008. However, none of the documents, where the cooperation of the parties is planned, indicated the data of Ukraine's accession to NATO. Both Ukrainian political structures (especially constitutional authorities) and NATO officials do not name an approximate time (year) when Ukraine's aspirations for full membership in the Alliance, articulated in numerous documents, will become a reality.

It is worth emphasizing the main contradiction in the practical implementation of Ukraine's Euro-Atlantic movement. With the constitutional consolidation of intentions for future membership in NATO, the Ukrainian state-building elite, having all the necessary grounds and opportunities for this, did not ensure the continuity of the state course on Euro-Atlantic integration of the state and the accumulation of constructivism along the way. Ukraine's Euro-Atlantic progress was not so convincing that all existing NATO member states would believe in it. As a result, as of 2021, we have political forces that support the continuation of Ukraine's Euro-Atlantic integration process (their constitutional

majority) and political forces that oppose it (their minority, but they are present in government structures, primarily in the state legislature). The lack of an Action Plan on Ukraine's membership in NATO (MAP), which slows down the process of further enlargement of the Alliance with the participation of democratically oriented post-Soviet states (including Ukraine), remains a convincing illustration of the imperfection of the organizational and legal mechanism for accelerating Ukraine's Euro-Atlantic integration.

We can state that the organizational and legal mechanism of cooperation between Ukraine and NATO, which was discussed in the article is only partially effective. Based on it, the "average" level of cooperation between the parties has been established at the level of bilateral commissions, programs, individual actions with the participation of heads of state, ministers, parliamentary or governmental delegations. This mechanism did not fulfill the main goal – Ukraine's accession to NATO. Both in its organizational and legal parts, there are not enough components to ensure the reform of the Ukrainian state in accordance with the tested democratic models. We are talking about judicial reform, anti-oligarchic reform, anti-corruption reform, as well as the full reduction of the components of the security and defense sector of Ukraine to Western standards. "Unreformed" Ukraine cannot become a member of the North Atlantic Treaty Organization, which is periodically reminded by Western leaders. Accordingly, the organizational and legal mechanism of cooperation between Ukraine and NATO needs further qualitative improvement.

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