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**NGOs INTERACTION WITH EU INSTITUTIONS WITHIN THE
PROCESS OF FORMING AND IMPLEMENTING EU POLICY:
EFFECTIVE PUBLIC POLICY TOOLS FOR THE ENVIRONMENTAL
POLICY OF UKRAINE**

**ВЗАЄМОДІЯ ГРОМАДСЬКИХ ОРГАНІЗАЦІЙ З ІНСТИТУЦІЯМИ
ЄС У ПРОЦЕСІ ФОРМУВАННЯ ТА РЕАЛІЗАЦІЇ ПОЛІТИКИ ЄС:
ЕФЕКТИВНІ ІНСТРУМЕНТИ ПУБЛІЧНОЇ ПОЛІТИКИ ДЛЯ
ЕКОЛОГІЧНОЇ ПОЛІТИКИ УКРАЇНИ**

***Summary.** As part of the PhD thesis " NGOs activities in the process of forming and implementing the environmental policy of the European Union: experience for Ukraine", the mechanisms that were used during the interaction of a number of NGOs, analytical centers of the EU and Ukraine were studied. The theoretical and practical aspects of forming environmental and energy policies in EU and Ukraine were investigated with NGO participation. The importance of the research topic of the article is determined by the fact that the correct implementation of EU environmental law is strongly dependent on the capacity of NGOs to initiate litigation at the national level. According to scientists, NGOs*

have two avenues at their disposal for influencing EU policy. Next instruments were identified: open public consultations, Directorate General organises civil society dialogue forums, Ad-hoc interaction with European Commission officials, interaction with MEPs and also NGOs can impact on legislative proceedings through their participation in Intergroups.

In contrast to this, it was established that one of the most successful public organizations of Ukraine, which has reached the level of an analytical center with national and international influence, distinguishes the concepts of advocacy and lobbying and, accordingly, uses such public policy tools as: training of decision makers; educating the public about how decisions are made; cancellation of unjustified or incorrect decisions by authorities; discussions and public discussions; interviews, information campaigns to convey the developed positions of NGOs. Also, the article analyzed the analytical products created by the Ukrainian NGO, analytical center, which can be considered effective tools for ensuring transparency in the extractive industry (nature resources) and in the energy sector: Nadra monitor and Energy Transparency Index.

Based on the results of the research, the author proposed effective tools for advocacy campaigns and institutional development of NGOs, who work in environmental policy including energy and nature resources field.

Key words: EU, NGO, advocacy, environmental policy, natural resources, Ukraine, DIXI Group.

Анотація. В рамках дисертаційного дослідження «Діяльність громадських організацій у процесі формування та реалізації екологічної політики Європейського Союзу: досвід для України» розглянуто механізми, які використовувалися під час взаємодії ряду громадських організацій, аналітичних центрів ЄС та України. Досліджено теоретичні та практичні аспекти формування екологічної та енергетичної політики в ЄС та Україні за участю громадських організацій. Важливість дослідження означеної теми статті визначається тим фактом, що правильна імплементация

екологічного права ЄС сильно залежить від спроможності громадської організації ініціювати судові процеси на національному рівні. На думку вчених, громадські організації мають у своєму розпорядженні два шляхи впливу на політику ЄС. Були визначені наступні інструменти: відкриті публічні консультації, Генеральний директорат організовує форуми для діалогу громадянського суспільства, спеціальна взаємодія з офіційними особами Європейської комісії, взаємодія з депутатами Європарламенту, а також громадські організації можуть впливати на законодавчі процеси через свою участь в інших робочих групах. На противагу цьому встановлено, що одна з найуспішніших громадських організацій України, яка досягла рівня аналітичного центру з національним та міжнародним впливом, розмежовує поняття адвокації та лобіювання та, відповідно, використовує такі інструменти публічної політики, як: навчання осіб, які приймають рішення; інформування громадськості про те, як приймаються рішення; скасування необґрунтованих або неправильних рішень органів влади; дискусії та громадські обговорення; інтерв'ю, інформаційні кампанії для донесення вироблених позицій громадськими організаціями. Також у статті проаналізовано аналітичні продукти, створені українською громадською організацією, аналітичним центром, які можна вважати ефективними інструментами забезпечення прозорості у видобувній промисловості (природні ресурси) та в енергетиці: Надра Монітор та Індекс прозорості енергетики.

За результатами дослідження автором запропоновано ефективні інструменти адвокаційних кампаній та інституційного розвитку громадських організацій, які здійснюють свою діяльність в сфері екологічної політики, в тому числі у сфері енергетики та природних ресурсів.

Ключові слова: ЄС, громадська організація, адвокація, екологічна політика, природні ресурси, Україна, DIXI Group.

Statement of the problem. In a democratic country, civil society, through its institutions, actively influences the development of policies, actually encouraging officials to serve the interests of the people. This topic is extremely relevant in the context of the Association Agreement between Ukraine and the European Union, as it contributes to the formation of such an institutional environment in Ukraine, which is based on the principles and values of the EU, including cooperation and partnership. At the same time, according to the report on consultation Civic Space—Experiences of Organisations in 2019, second annual civil society consultation, notes that many NGOs-respondent to the survey, “participated in public consultations during 2019, but the majority had difficulties accessing such consultations and with the participation process”. Eventually, there is trend of NGOs having difficulties engaging in public consultation and with participation process in general [1] . Here are several perceived policy risks associated with NGOs participation in policy development: the lack of understanding of the role of consultation with NGOs and public at large, the time-consuming and costly process of consultation, the lack of necessary resources required for consultation, and low professional level of policy-makers.

Analysis of recent researches and publications Among the Ukrainian scientists who study the role of NGO in environmental policy, we note the following: V. I. Andreytsev, V. Ya. Shevchuk, Yu.M. Satalkin, G.O. Bilyavskiyi. Among foreign scientists, we should note J. Vogler, H. R. Stephan, H. Selin, S. D. VanDeveer, etc.

Formulation purposes of article (problem).

The purpose of the article is to analyze and develop recommendations for the NGO of the best European practices regarding adaptation forms of NGOs interaction with EU institutions in the process of forming and implementing environmental policy.

The main material. The European Council set out 4 priority areas in its 2019-2024 strategic agenda to guide the work of the EU institutions over the next

5 years. These areas seek to respond to the challenges and opportunities that the current global situation has thrown up. By focusing on them, the EU can strengthen its role in today’s challenging environment. Regarding environmental policy field - Investing in green initiatives that improve air and water quality, promote sustainable agriculture and preserve environmental systems and biodiversity. Creating an effective circular economy (where products are designed to be more durable, reusable, repairable, recyclable and energy-efficient) and a well-functioning EU energy market that provides sustainable, secure and affordable energy. A faster transition to renewables and energy efficiency, while reducing the EU’s dependency on outside energy sources [2].

The correct implementation of EU environmental law is strongly dependent on the capacity of NGOs to initiate litigation at the national level or inform the Commission as guardian of the Treaty of an alleged infringement of EU law. These two possibilities reflect the dual – centralized through the Commission and decentralized through the national courts – enforcement strategy on which the multi-layered EU legal system is based. NGOs monitor developments at EU institutions, and analyze the potential impacts on their members or interests. They inform members and raise their awareness, and engage and consult them on their views, bringing these standpoints back to the EU and challenging policy-makers and other stakeholders to address their concerns. NGOs play a multiplicity of roles. At the same time, NGOs serve as a resource to the EU due to their policy expertise and understanding of complex policy-making processes, filling knowledge gaps and providing valuable input to the policy-making process. NGOs also often function as service providers in their home countries, making them a crucial partner in developing policy. Simultaneously, EU member states also have an interest in NGOs to monitor EU policy, as this represents a way of indicating which areas are politically significant for important parts of the population. Participation of NGOs is an inherent part of the broader concept of citizen/civil participation—that is, participation of individuals and civil society at

large (non-state actors) at different stages of policy development [3]. This concept is also embedded in the guiding principles underpinning a European Public Administration Space as they pertain to policy drafting, implementation and monitoring [4]. As a rule, NGOs should be consulted at all stages of policy development, recognizing that “consultation may be carried out through various means and tools, such as meetings, public hearings, focus groups, surveys, questionnaires and digital tools”, depending on a particular stage of the process [3, par. 23]. On our opinion, participation of NGOs at early stages of policy development minimises the risk of ill-conceived solutions which would be more difficult to remedy at later stages of the process. Thus, NGOs should have an opportunity to provide feedback to a government’s proposal of an annual legislative plan, as well as to be consulted during the preparation of ex-ante impact assessment—in addition to being consulted on a draft policy proposal [5].

NGO often work as part of national or European federations or associations. Small NGOs can usually only be directly represented if there are particularly knowledgeable or fill a niche role. Usually, only the large NGOs can afford to maintain a significant presence in Brussels. NGOs have two avenues at their disposal for influencing EU policy. First, they can use pre-existing networks with their own or third-party national governments in the hopes that the government’s envoys to the EU will represent their voices or even adopt them as their own. Second, they can lobby the EU directly, which tends to be more effective as it allows organizations to exert influence at the policy formation stage. NGOs often don’t act in isolation when trying to achieve their goals, but often form ad hoc policy coalitions. These alliances do not only comprise of NGOs, but can also include national and regional governments, industry, other interest groups, and Members of the European Parliament and Commission and/or Council members. The roles of these coalition members can change, but each can act as an advocate, a sponsor, a researcher, an input provider etc. To achieve environmental policy

goals and sustainable behavior, policymakers need tools to encourage policy compliance among citizens, business, government and NGO.

Within the framework of the PhD rasearch " NGOs activities in the process of forming and implementing the environmental policy of the European Union: experience for Ukraine" the activities of a number of NGOs, analytical centers of the EU and Ukraine were investigated. As example, association of Accredited Public Policy Advocates to the European Union determine such interaction instruments as: Participation in EC Consultations - consultations regarding legislative proposals. Consultations can be targeted, i.e. open to those who the Commission has invited to respond, or open public consultations, i.e. open to everyone. Open consultations are popular with many NGOs as these organizations can express recommendations and concerns on specific topics directly to the Commission; Participation in structured dialogue organized by the European Commission - include the Civil Society Dialogue and formal working groups. Directorate General (DG), e.g., frequently organizes civil society dialogue forums in which NGOs, labor unions, business representatives and other stakeholders can share their views on specific issues with Commission representatives; Ad-hoc interaction with European Commission officials - NGOs directly contact a DG when they want to have particular issues addressed. DGs themselves also organise regular meetings with NGOs ('ad hoc meetings'), outside the formal structure of expert groups; Ad-hoc interaction with MEPs - During the legislative process, NGOs engage directly with particular MEPs: rapporteurs, shadow rapporteurs, committee chairs, the assistants of the committee secretariat or group officials. MEPs are considered 'the main gatekeeper in forming the opinion of the Parliament; Ad-hoc interaction with EP Intergroups - NGOs can also impact legislative proceedings through their participation in Intergroups. NGOs can provide coordinators or the secretariat for such groups and can influence policymaking by setting agendas and designating speakers. They can also

facilitate the creation of EP written declarations, since through Intergroups they can pressure MEPs to sign declarations [6].

Today, situation in Ukraine become a trigger for NGOs, which used to work in environmental and energy field: some have ceased to exist, others have turned from local organizations into important political actors at the national and international level, even re-profiled to analytical centers. NGOs played the leading role, with grant support some of them carry out socially significant, scientific work of national and international importance. The leading Ukrainian analytical center, NGO DIXI Group defines energy modernization through the components of decarbonization, energy efficiency and environmental protection.

NGO sector in Ukraine remain the necessary public policy tools that strengthen the country's ability to respond to crisis situations though the next developed instruments: Nadra monitor [7], The Energy Transparency Index [8], – such instruments will be helpful to companies and potential investors seeking an open, competitive environment, a better relationship with the government and local communities, and reducing business risks. Those, Energy Transparency Index ultimate beneficiaries are consumers, as their awareness improves the possibility of protecting their rights and helps rationalize economic behavior in the market. More transparent and competitive energy markets promote the improvement of services for consumers and fair pricing. The Index will also support public authorities responsible for information disclosure, indicating particular gaps and helping to improve their transparency and respective regulations.

In our opinion, in its activity analytical center, NGO DIXI Group separates the concepts of advocacy and lobbying as follows, which respectively include various types of tools and methods of influence to achieve the set goals [9, p. 37]. Thus, advocacy is any action that recommends, argues for a specific decision or action, supports or defends, or speaks on behalf of others. Lobbying is a narrower concept; representing the interests of a very specific range of stakeholders; there

are three components: the decision-makers, the legislation itself and the request for a vote. So, advocacy is a broader concept; representing the interests of a large number of interested parties (population, expert community), has no financial interest. Advocacy components includes: Education of those who make decisions - deputies, ministers, employees of ministries or the regulator; Education of the population about how decisions are made - "acquaintance" between people and deputies; Working on mistakes: cancellation of unjustified or incorrect decisions by authorities; Decisions on behalf of the interests of the population: adoption of laws or secondary legislation; Discussions and public discussions to convey developed positions; Publications, interviews, information campaigns to convey the developed positions.

Insights from this study and perspectives for further research in this direction. The EU institutions are developing new legislative frameworks, EU communiqué to protect environmental regulations fixing requirements for EU member states, which emphasizes in latest documents: Communication: "Ukraine relief and reconstruction", The REGIONS REPowerEU Plan, EU "Save Energy" , etc. Such dynamics clearly demonstrate that EU has no intention to vomit the pace and ambitions of reforming both the energy and environment sector, emphasizing its priority. Taking into consideration previous successful projects Ukrainian NGO in formation and implementation environmental and energy policies, we stated that this policy actors will use strong "soft power" to advocate citizens oriented decision in field of nature-oriented policy and best possible solutions for energy safety, as a part of global climate.

Taking into account the above, in order to achieve effective interaction between NGO and EU institutions in the process of approximating European environmental legislation into Ukrainian legislation, participation in the formation and implementation of environmental policy, it is recommended to fulfill the following conditions for building advocacy campaigns and own institutional development: specifying needs to be changed or adopted at the level

of the Parliament , Government, Ministry; specify the arguments and their justification: why it is necessary to change or make a decision; find partnerships to promote the idea: who else has the same position to join forces (other NGOs, media); determine the tools of information dissemination: meetings in 1:1 format, round tables, letters, appeals; detail the financial resources for each level of advocacy and the corresponding time frame.

It is recommended to ensure the NGOs institutional development, which includes: mandatory training (at least 2 courses per year), transfer project management to the heads of areas, not to the head of the organization, to ensure internships in EU institutionals, to engage a HR consultant or company; willingness to comment – NGO experts must monitor and be competent to provide comments promptly; communication - pay attention to English-speaking communication; develop fundraisers; establish a representative office in the EU.

Prospects for further research will follow with the directions of today's legal regulation of the NGOs participation in the formation and implementation of the EU's environmental policy and the development of recommendations for NGOs in Ukraine.

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