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Ukraine and the EU: towards an Eastern Partnership?

2004 signed a turning point in Ukraine-EU relations. In November-December in Kyiv the Orange Revolution broke out and accelerated the Euro-Atlantic integrationist course embarked on by Ukraine since its independence in 1991. The event shifted the priority of the "European choice" from the exclusive domain of the country's foreign policy to domestic policy-making and reform process with the aim to testimony Ukraine's value for the EU and ultimately to lead to a membership prospect.

In the same year Brussels welcomed ten new members which had once belonged to the former Soviet bloc and worked out the concept of European Neighborhood Policy (ENP). This strategic framework setting up a specific EU policy agenda for both the southern and the eastern neighbors of the Union did not however provide prospects regarding access to the EU on the part of these states. In the case of Ukraine, the ENP was implemented in parallel with its first bilateral and comprehensive legal framework with the EU, the Partnership and Cooperation Agreement (PCA), which expired a few months ago. In 2005 it was adopted the Action Plan, the working instrument on economic and political progress of the ENP,

which was recently renewed until April 2009. Its renewal was indeed a due move as Ukraine continues to suffer from a low quality of governance, long-lasting debates over constitutional reform, conflicting economic interests of the oligarchs and their influence on the ruling élite, widespread corruption and deep political and geographical division between regions leaning towards the Western influence and other regions towards Russia. Within the time span of the last four years, Brussels has sought to reassess the relationship with Ukraine. Although pushed forward by ambitious goals, the Union fell short in up-grading the eastern part of the ENP into a strong and coherent project either directed to the long-desired by Kyiv EU membership or prospecting a different solution. Will 2008 be a turning point following the Polish-Swedish proposal for an Eastern Partnership? Will this initiative give a new impetus to the eastern dimension of ENP?

The evolution of the EU eastern policy and Ukraine's disenchantment

For the first time the ENP conceived Ukraine as an autonomous actor in a

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Abstract

2004 signed a turning point in Ukraine-EU relations. The Orange Revolution broke out and accelerated the country's Euro-Atlantic integrationist course. In the same year Brussels welcomed ten new members and worked out the concept of European Neighborhood Policy. This policy however failed to offer a membership prospect and led to Ukraine's gradual disenchantment.

Meanwhile, the already outdated Partnership and Cooperation Agreement between the EU and Ukraine expired and negotiations on a New Enhanced Agreement (NEA) were launched. Talks for the core component of NEA, a Free Trade Agreement, were started immediately after Ukraine's May WTO accession. But Kyiv's ambition to enter the EU remains so far unsatisfied.

A breakthrough in the stalling situation came in late May when a Polish-Swedish proposal for an Eastern Partnership was tabled echoing the Union for the Mediterranean idea. The Commission was invited to present in early 2009 a proposal for the modalities of its implementation. Sarkozy too seems determined to strengthen this initiative. Will 2008 bring a new impetus for EU-Ukraine relations? How will Russia impact on future EU-Ukraine relations?

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European geopolitical project¹, not connected to the EU-Russia relations as in the earlier phase. The EU was thus pursuing a twofold objective: to guide the transition process in Ukraine towards a Western-style market democracy and to integrate the country into the Euro-Atlantic structures, without indicating a clear path that should have been followed. A failure in both these targets would have meant for the EU losing its regional influence to Russia². The ENP was also thought to confirm the continuity with the previous EU policies aimed at expanding EU values, order and security in its neighbourhood without incurring into excessive costs and commitments³. Throughout the years, the ENP framework for Ukraine was characterised more by economic incentives, like a possible free trade agreement with the EU, than by prospecting political long-term initiatives boosting domestic reforms and progress. All in all, bilateral relations were meant as more than a partnership and less than a membership. The lack of significant domestic politics'

improvement in Ukraine and the EU's relatively weak strategy made Ukrainian people's frustration growing. Analysts even warned that the ENP ran the risk of resulting in a "superficial transposition of legal norms and institutions (that) would not only not have the desired benefits for the economy but, more damagingly, would strengthen the prospect to simulate reforms in Ukraine"⁴. Moreover, due to the differentiated approach towards eastern neighbours, the EU did not establish a basis for regionalism. A possible explanation of this neglect of such policy is the overbearing Russia's factor⁵. While establishing new inter-regional structures competing with those promoted by Russia would have only had the effect of exacerbating the relations with Moscow, the EU has certainly missed the occasion to engage with the latter on equal terms in the already existing groupings. Indeed, not having come up with a coherent policy towards the post-Soviet space or participating in regional organisations has weakened Brussels' position in the eastern neighbourhood.

Instead, the EU privileged a gradual economic integration, confirmed by the entry into force in 2008 of a bilateral Visa Facilitation and Readmission Agreements facilitating and reinforcing trade and economic cooperation. As regards Ukraine's political

landscape, the EU reiterated its calls for Kyiv's leadership to stabilise the political situation, establish a feasible system of proper checks and balances between the main state organs and an independent Constitutional Court, and reinforce bilateral cooperation in energy, transport, environmental, and health sectors as well as in the area of foreign and security policies⁶. However, domestic scenario remains largely unpredictable due to quarrels within the Orange Coalition over 2010 presidential election and to the changing position of the pro-Russian "Party of Regions" of Yanukovich, which either opposes government reform proposals or supports the President against the Premier's views. Furthermore, the majority of Ukrainians admits to having a poor knowledge of the EU and thus is unable to correctly assess to what extent getting closer to the EU is desirable or convenient for the country. This general situation does not contribute to the successful implementation of Brussels' strategies.

The expiry of the PCA brought about the launch of negotiations between the EU and Ukraine on a New Enhanced Agreement (NEA). NEA is a unique occasion to consolidate the EU credibility and role in the eastern neigh-

¹ See V. SAMOKHVALOV, *Relations in the Russia-Ukraine-EU triangle: "zero-sum game" or not?*, EU-ISS Occasional Paper N. 68, September 2007.

² See I. KEMPE, *Identifying an Agenda for a new Eastern Policy – Connecting the German and Finnish EU Presidencies*, Center for Applied Policy Research, Munich – Bertelsmann Group for Policy Research, February 2007.

³ See K. WOLCZUK, *Ukraine and its relations with the EU in the context of the European Neighbourhood Policy*, in «Chaillot Paper», No. 108, Ukraine: Quo Vadis?, February 2008, p. 99-100.

⁴ *Ibidem*, p. 109.

⁵ K. LONGHURST, *Injecting More Differentiation in European Neighbourhood Policy: What Consequences for Ukraine?*, in «Russie. Nei. Visions N. 32», IFRI, July 2008, p. 12.

⁶ Ukraine has always aligned itself with most EU security and defense declarations. It is currently involved in the resolution of Moldova's Transnistrian conflict through the EU Border Assistance Mission (EUBAM) and has recently ratified the EU-Ukraine Agreement on Ukrainian Participation in EU-led crisis management operations.

bourhood considering the fact that this future agreement is deemed to be the more advanced one in the region. After eight rounds of talks so far, the parties have not come to an agreement on the nature and the scope of the new pact. Following last April's positive evaluation by the EU Commission regarding the progress reached by Kyiv vis-à-vis its EU commitments, the Commissioner for External Relations Benita Ferrero-Waldner expressed EU's wish to further bilateral ties. She proposed establishing an "enhanced" or "privileged" partnership with Ukraine, as well as with other three of EU's most committed neighbours: Israel, Morocco and Moldova, suggesting an increase of the funds available to these countries. Ferrero-Waldner acknowledged that reforms are still needed mainly in the economic system, the opening of the domestic market, as well as in the fight against corruption. However, the Foreign Ministry of Ukraine defined the proposal unacceptable and "called upon Brussels to come up with a new formula for EU-Ukraine relations, which would take into account Ukraine's desire for European integration and its strategic role in Europe"⁷. The ostensible unwillingness of Brussels to reciprocate Kyiv's European aspirations and offer a membership prospect highlighted the broken expectations of Ukrainians, who felt betrayed by the EU

⁷ See *European Union: Neighborhood policy*, Oxford Analytica, in «International Herald Tribune», May 9, 2008.

and somewhat abandoned to the Kremlin policies.

Despite these disagreements, the parties managed to begin negotiating a deep and comprehensive Free Trade Agreement (FTA) being NEA's core component once Ukraine would have become a WTO member. Indeed, after May 16, 2008 accession to the trade organisation, FTA talks immediately started. Why has the EU so strongly supported Ukraine's WTO membership and the subsequent FTA prospect but remained lukewarm on political issues? There are two reasons. The first one relates to the enlargement fatigue and the absorption capacity of the Union. It implies a general preference for an economic integration, followed in the future by a possible political integration. The second reason relates to Ukraine's political situation which is not yet mature to overcome the Russian influence: membership may break the delicate equilibrium between the influence of Moscow and Brussels. Furthermore, reaching certain economic standards, as required by the WTO, entails carrying out political reforms capable of guaranteeing the implementation of European principles of governance and the strengthening of institutions. At the same time Ukraine's WTO accession provides more stability and predictability, and better terms of access for EU businesses willing to export to, or to establish in, Ukraine. Ukrainian exporters too will have guaranteed channels of exports. Analysts predict that new economic ties will boost mainly agricultural, chemical

and metals exports. Further positive effects are expected to involve the lowering of customs duties, the gradual improving of the financial sector efficiency, the upgrading of labour protection, and the improvement of business climate. Yet, being the EU one of the biggest trade partner of Ukraine, a FTA may attract third country investors in Ukraine and promote the country as a foreign investment destination⁸.

While Brussels' strategy on Ukraine remained focused on the economic dimension, a major breakthrough came on May 26, 2008 from Poland and Sweden. They officially tabled a proposal for an Eastern Partnership between the EU and its eastern neighbours: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. Although Sweden and Poland played down any similarities, the proposal somewhat echoes the "Barcelona Process: Union for the Mediterranean" project, launched just weeks after the beginning of the French EU presidency and involving countries lying south of the EU⁹. Their "initiative attempts to close a gap between the Northern dimension and the EU's Black Sea Synergy which currently marks Belarus as a blank spot

⁸ See *Ukraine economy: WTO entry secured*, The Economist Intelligence Unit, April 11, 2008.

⁹ The Czech Deputy Prime Minister, Alexandr Vondra, who also supported the initiative, emphasised that "a balance is needed. This year, it is a Mediterranean year. So, the next year would be the Eastern year".

on Europe's strategic map"¹⁰. The reason behind the idea, as the Swedish Europe's Minister Malmström underlined, is that the ENP has not been working and it has not been targeting the individual countries and their conditions. The Eastern Partnership therefore reflects a growing concern, especially among central and eastern EU members, that Brussels is neglecting its eastern neighbours. Instead, there is a need to put some of them, like Ukraine, on the path towards a full EU political integration and thus to strengthen the "ideological foundation" of the ENP, as Polish Foreign Minister Sikorski put it. The initiative is to be developed within the structures of the ENP with the Commission playing a coordinating role. No additional institutional arrangements are to be created nor extra EU funds allocated. Areas where the promoters would like to see a deeper cooperation include a visa-free regime, a free trade zone for services and agricultural products, increased efforts at people-to-people contacts, as well as closer cooperation in transport infrastructure, border control and environment. The proposal does not advocate an explicit membership but it prevents the EU from ruling out the possibility for the beneficiaries of obtaining such a prospect in the future. The initiative rejects current ENP lack of distinction between eastern and southern neigh-

bour, whereas the proponents believe the former's entire territories lie in Europe and, by the provisions of the Treaty of Rome, they should have the right one day to apply for membership. Southern neighbours, on the contrary, are defined as just "neighbours of the EU", guided by a cooperation approach¹¹, and not "European neighbours", i.e. countries that may pretend an integration with the Union. Similar statements indeed refer to the long-lasting and still pending discussion on the borders of Europe. Minister Sikorski also urged the countries envisioned in the initiative to follow the example of the Visegrad group (1991-2004), comprising Poland, the Czech Republic, Slovakia and Hungary, set up to build regional cooperation before their 2004 accession to the EU. In other words, the Eastern Partnership proposal seeks to create conditions for a regionalism in order to make the region more homogeneous as to its political and economic situation. The Visegrad group model is aimed at changing the perception in Brussels on these countries' ability to promote and implement reforms. However, the inclusion of the Eastern Partnership within the ENP provoked the irritation of Kyiv since it once again confirms the tendency

of falling short of a membership prospect. During last June European Council's meeting it was agreed to develop regional bi- and multilateral formats of cooperation in the eastern dimension of the ENP and the Council invited the Commission to present in early 2009 a proposal for modalities of the Eastern Partnership.

The dynamics behind the "Eastern Partnership"

There are a number of factors that should be taken into account while assessing the initiative, intended to influence the EU future stance on Ukraine. These factors relate, on the one hand, to the promoters' interests and aspirations within the EU, and, on the other hand, to the EU position vis-à-vis Russia.

The idea belongs to both Poland and Sweden but many analysts have pointed out that Swedish participation and support is a mere formality with the real proponent being Poland. The latter has thus tried to combine its traditional foreign eastern policy's goals with the attempt to have a determining stance in major EU policy such as the ENP. The late 2007 change of Warsaw's government from the Euro-sceptic and conservative one of Jaroslaw Kaczynski to the current Euro-enthusiastic one of Donald Tusk seems to have played a decisive role. Prime Minister Tusk is seeking to re-introduce Poland as a positive and essential factor in establishing durable EU foreign policies, based on as large as possible consensus

¹⁰ See D. GROTZKY, *Sweden and Poland's "Eastern partnership" re-energizes the internal EU contest over Neighbourhood Policy*, <http://cap-lmu.de/aktuell/positionen/2008/neighbour.php>.

¹¹ Longhurst underlines the fact that the dynamics of the relationship between Brussels and its eastern neighbours have been always conditioned by enlargement contrasting with EU's Mediterranean policies. See K. LONGHURST, *Injecting More Differentiation in European Neighbourhood Policy*, cit.

among EU members. The proposal has in fact received the support from either “old” EU member states such as the UK, France, Germany (to some extent), Finland¹², or “new” ones like most of Central and East Europe countries¹³. Developing an Eastern policy has always been a priority for Polish foreign policies with a particular attention paid to Ukraine due to historical and political reasons. Poland has affirmed itself as a “bridge” between Western EU and post-Soviet countries, a driving force aimed at eluding the establishment of new dividing lines in Europe. Especially after the 2004 EU accession, Warsaw showed eagerness to promote in Ukraine its national successful model of implementation of democratic values, market economy and transformation. Since then Poland is considered the strongest advocate for Ukraine’s EU membership while Brussels’ policies are deemed to lack a vision. However, Poland underestimated some factors that were shaping EU’s lukewarm reactions such as the enlargement fatigue and the pro-European path of Ukraine¹⁴ and this may

weaken its future strategies’ effectiveness.

Polish ambitions are tightly related to its relations with Germany, the latter considered a traditional EU leader in assessing Brussels’ eastern dimension. Germany expressed its approval for the Polish-Swedish initiative but it nevertheless emphasised that it does not necessarily imply a preparation for accession. Why has Warsaw received Berlin’s support given the competition among the two over the key role on eastern neighbourhood’s fate? Germany’s friendly relations with Russia (see the collaboration in the Nord Stream project) have often strained ties between Berlin and Warsaw, especially under the government of Kaczynski. Moreover, among Germany’s EU Council presidency priorities in the first semester of 2007, there was the development, even if later not fully carried out¹⁵, of EU *Neue Ostpolitik* to include Russia, Central Asia, and the ENP. The proposal called “ENP Plus” pointed out to the distinction between eastern and southern neighbours. The core idea was to make the EU an active player and not a passive observer in regional matters. To this purpose a binding agreement conceived to apply as much as possible of the *acquis communautaire* in the ENP states in sectors such as the single European market, energy, traffic, justice and internal affairs, was to replace the less effective Action Plan instrument and to lead to a greater modernisation of these

countries. Furthermore, the ENP Plus aspired to integrate both the ENP states within the decision-making processes of the EU and some regional cooperation structures such as the Black Sea initiative. To some extent, the Polish-Swedish proposal echoes the contents of ENP-Plus. Therefore, it may be interpreted as a chance for Germany to promote its 2007 eastern agenda by means of exploiting Poland as a “proxy” of its long-term regional politics. At the same time, Germany will ensure that the special relationship with Russia is fully honoured. Indeed, Germany’s strategic partnership with Moscow and Polish Premier’s Tusk positive approach towards Russia may evolve towards a pragmatic agenda.

Eastern Partnership initiative is also linked to the current French EU presidency. It is rather a unique occasion for Poland to strengthen the consensus on this proposal taking advantage of the concurrently launched Union for the Mediterranean. On his part, President Sarkozy already announced he would advance an “ambitious partnership” for Kyiv at the EU-Ukraine Summit in Paris in September 9. France is expected to propose that EU-Ukraine relations are embedded within the pattern of an association agreement, an intention which satisfies Kyiv. Paris’ eagerness to boost the Polish-Swedish Eastern Partnership initiative is repaid by the willingness on the part of Warsaw to contribute to one of the French EU presidency priorities that is strengthening the EU defense capabilities

¹² Luxembourg however warned against the threat of undermining EU cohesion with some members supporting the eastern and other the southern neighbourhood.

¹³ Bulgaria and Romania expressed a lukewarm position since they fear a possible threat to the Black Sea Synergy project.

¹⁴ A.K. CIANCIARA, “*Eastern Partnership*” – opening a new chapter of Polish Eastern policy and the European Neighbourhood Policy?, Analyses & Opinions N. 4, June 2008, Institute of Public Affairs of Poland, p. 8.

¹⁵ The only part of this policy which has been successfully adopted concerns the Central Asia strategy.

either on the institutional or the operational side (Poland declared it would participate in the European forces in Chad). With regard to European defense and security concerns, some analysts pointed out to the fact that the gradual expansion of the Union, as aspired to by the Eastern Partnership project, refers to Polish ambitions to abandon the role of EU external border country located along with the unstable east, and promote instead every initiative that may guarantee a predictable and secure neighbourhood. This will be indeed the leading motto of the Polish EU Council presidency in 2011. What may be expected at present is that President Sarkozy lays the basis for a future comprehensive development of the eastern dimension, to be further strengthened during 2009 Czech and Swedish EU Council presidencies and 2011 Polish one.

The second major factor determining Ukraine's future are EU-Russia's relations. In this regard, the Polish-Swedish initiative is part of the difficult EU-Russia bargain over the renewal of the PCA with Moscow, whose negotiations were launched during the last EU-Russia Summit in Siberia¹⁶. The contents of the new PCA will shape the ultimate Brussels' strategy towards Ukraine. EU

reliance on Russia's energy supplies and the need to guarantee energy security still dominates bilateral relations and imposes that any future initiative undertaken in territories close to the Russian Federation should be agreed on in advance with the latter.

Conclusions

Ukraine hopes to join the EU by 2020. After the Polish-Swedish proposal was tabled, the Ukrainian Minister of Foreign Affairs affirmed that the need for the EU to develop an effective eastern dimension of its foreign policies was clear. Minister Ohryzko also warned that his country would never accept an Eastern Partnership intended to be a goal in itself and not a means to achieve EU membership. The EU appears to be characterised by both an internal lack of unity and consensus on the ENP (some members privilege the southern neighbourhood dimension, others the eastern one), and positive signs of willingness to change the status quo of the ENP ineffectiveness. The Eastern Partnership proposal should certainly be viewed as an important starting point and a window of opportunity for the eastern EU neighbourhood as well as for the EU itself as a regional actor capable to establish constructive and pragmatic relations with Russia, whose influence is still large in Ukraine.

However, there are some negative implications that may hinder its future. The first one stems from Ukraine's position. Kyiv firmly opposes the exclu-

sion of a membership prospect and the fact that the proposal foresees eastern neighbours as one entity without distinguishing between various levels of progress achieved by the single beneficiaries. Ukraine has already expressed its dissatisfaction with equalling it with other eastern neighbours (like Armenia or Azerbaijan), as advanced in the Polish-Swedish initiative. Second, the Commission seems set to maintain a balanced and indivisible ENP but recent developments are contradicting it and are thus weakening EU foreign policy. Third, the proposal fails to involve Russia in any form of collaboration and hence relations appear to be once again referred to bilateral domain. Such an approach risks isolating Russia and provoking its aggressive conduct, while Ukraine may become a battlefield of EU-Russia clashes. In order to avoid similar scenario, Brussels should try to engage with Russia when it comes to deal with eastern neighbours as Ukraine. Elaborating a strategy towards Moscow will strengthen EU's position and power in negotiations, and may be a unique occasion to greet the Europeaness of Russia. Fourth, the recent "No" of Ireland on the ratification of the Treaty of Lisbon may strain the capacity of France to find, among other priorities, the desired equilibrium between implementing its Mediterranean agenda, meet the announced commitment towards Ukraine, and reinvigorating European integration and cohesion. Summing up, the implementation of the Eastern

¹⁶ The PCA with Russia has been stalled for a year and a half by the Polish veto and later on by that of Lithuania. Only on May 26, 2008 the Lithuanian veto was lifted after a brokering by Poland and Sweden and Brussels approved the launch of strategic partnership talks with Russia. On the same day Poland and Sweden unveiled their proposal for Eastern Partnership.

Partnership initiative reinforced by Sarkozy's intention to promote an ambitious partnership with Ukraine may give the desired impetus to base the NEA on an association-type of relations. Although such an agreement does not immediately lead to a membership, it will provide for a greater compliance with EU standards and will boost domestic reforms in Ukraine, while confirming its European value.

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