

EASTERN MONITOR

ENP Review – Towards effective EU action in the Eastern neighbourhood?

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- **The recent review of the European Neighbourhood Policy has been under heavy scrutiny because of its importance in defining the nature of relations between the EU and its neighbourhood, at a time when tensions have flared up with Russia. Each country is affected to a different extent by the review, which overall favours rational cooperation over the “more for more” principle, in an effort to redefine how the EU can strengthen these states.**



The future action of the European Union in its neighbourhood will be guided by the recently issued Communication on the ENP review (November 2015), drafted by the Commission and European External Action Service (EEAS)¹. It is a policy document that articulates “what to do” and “how to do it” in the EU neighbourhood in the near future within 8 chapters and 21 pages. The implementation of the Communication has already started, meanwhile the consultation procedures in the European Parliament, European Economic and Social Committee and Committee of Regions are ongoing. The EEAS is currently negotiating the priorities for bilateral relations with its EU Southern neighbours. In a close follow-up and perhaps more importantly, the European Commission has also started revising its financial instruments (mid-term review) for the neighbourhood. Funding is the customary but, in some cases, not-so-effective way the EU tackles major challenges, and the upcoming mid-term review will define this important tool for implementation of the ENP review until 2020.

Some experts have praised the ENP review for acknowledging the situation on the ground, and drawing correct reflections on different aspirations and level of preparedness of the neighbouring countries to engage with the EU (principle of differentiation), but also on the operationalization of EU interests, and an enhanced security angle. Nonetheless, the reception has been rather lukewarm from the side of civil society organizations and other players promoting human rights and democracy. The criticism can be summarized in the following way: the EU has embarked upon Realpolitik, turning its back on its own values² and focusing on imminent, short-term concerns of stabilization and migration. It has become apparent that democracy, rule of law and human rights have slipped down the agenda. Interestingly enough, the word conditionality, once a cornerstone of EU external

action, is not mentioned even once in the text. The top echelons of the EEAS and the European Commission seem to have lost faith in the leverage conditionality might provide, or perhaps in any EU leverage at all when it comes to effective democratization and promotion of human rights agenda. EU member states are back behind the steering wheel and are controlling the related policy process, which does not represent very good news, especially with regards to policies towards Russia.

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Much ado about nothing?

Before addressing, to some extent, the level of change and ambitions of the reviewed policy, the context is worth reminding, with a specific focus on the Eastern Partnership countries that also lie at the heart of interest of the *Eastern monitor*.

At numerous conferences organized recently on the state of the EU Eastern neighbourhood, “testing times”, “shrinking space” and “big elephant in the room” have been the most frequent buzzwords. Indeed, the situation in the region today is much different than from couple of years ago, with the EU certainly standing behind some of the observed changes, whether good or bad. Many have realized that Russian policies are not only unpredictable but that they aim to create constant conflict, which constitutes the major challenge to the EaP countries and their societies.

¹ EEAS, European Commission, November 18 2015, Joint Communication to the European Parliament, the Council, The European Economic and Social Committee and the Committee of Regions, Review of the European Neighbourhood Policy, http://eeas.europa.eu/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf

² In fact, Article 8(1) of the TEU states that the Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, *founded on the values of the Union* and characterised by close and peaceful relations based on cooperation.

The pivot state of *Ukraine* has experienced annexation of parts of its territory and covert aggression from its neighbour. While fighting a war in the East, the country is also striving to keep up with the prescribed tempo of reforms that are yet again trying to challenge entrenched societal patterns and deeply rooted traditional ways of doing things under a constant tide of Russian propaganda. The European Commission's report stating compliance with Visa Liberalization Action Plan (VLAP), which was considered by many as the main EU leverage with direct impact on the population, and the decision not to bow to Russian pressure and start full implementation of DCFTA as of January 2016 are good signals. However, a lot more could have been done from the EU and the member states' side in order to support the country at higher political levels, including attempts to enforce the Minsk agreements.

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In response to this changing security situation, growing pressure from Russia and worsening economic conditions, *Belarus* is looking for a constructive engagement with the EU, and the EU welcomes these moves with open arms, seeking a new potential success story of the region. This means the EU is willing to overlook some unattractive features of the regime, expects no radical and fast reforms and will most likely provide more money and help with access to loans. The new approach is defined by the need to keep "the window of opportunity [...] open" for engagement, dialogue and to show "strategic patience". This policy is supported by a substantive part of the local civil society given the unlikelihood of regime change, and the fact that such piecemeal approach can bring about improvements in some important policy areas (like

education), provided the engagement from the side of Belarusian authorities is genuine and continuous.

Another country with AA/DCFTA³ in place, *Moldova*, on the other hand, is collapsing. The former frontrunner of the region has been sinking into a protracted political crisis, with the EU observing from a distance and losing credibility due to having betted on a corrupt horse in the political race. Russia is inflaming the heated situation, including via the Moldovan minority in Russia and Transnistria in an effort to bring about further destabilization. But the country benefits from having an advocate – Romania - among the EU member states and if all relevant domestic forces manage to put the association process back on track and get support of the population, the prospect is not necessarily as bleak as pictured by many commentators.

Armenia is negotiating the so called AA- (minus) agreement with the EU behind doors that are closed to the independent local civil society, after the government decided not to go for a full-fledged treaty in 2013, and opted for the Eurasian Union under Russian pressure instead. The country desperately needs to modernize its economy with a budget drained also due to the need to maintain an armed presence in Nagorno-Karabakh, recently inflamed by military escalation. The Constitutional referendum held in December 2015 secured the Putin-Medvedev style of swap for the president Serj Sargsyan whose presidential mandate/s had been running out. Dozen of political prisoners remain in jail.

Georgia is holding up, separating itself from the rest of the EaP countries by a fairly good performance of the public administration, efforts to lower corruption and strong civil society with access to decision-making processes that can oversee the legislative process of the alignment with the EU law on the basis of AA/DCFTA. The EU's reward will be the visa-free regime, to be granted in the upcoming weeks. But there are nonetheless problems with media freedom and political pluralism and competition,

³ Ukraine, Moldova and Georgia concluded Association Agreements and Deep and Comprehensive Free Trade Agreements with the EU.

České vize pro Evropu, evropské vize pro Česko
 Czech Visions for Europe, European Visions for the Czechs

which will very likely demonstrate themselves in the upcoming parliamentary elections in autumn 2016. The country has still unresolved territorial problems with pro-Russian separatist areas and suffers heavily from Russian propaganda. It has, however, embarked upon a low-profile policy towards Russia while trying to improve its energy security with the help of Azerbaijan.

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The region's suddenly solitary pariah, *Azerbaijan*, is also sending signals that it wants to improve relations with the EU. With the oil prices at a historical low, the country is experiencing severe economic slowdown and needs financial support from the outside, including the EU. Its administration approached the EEAS with a ready-made Partnership Agreement, in the unprecedented process surprising the Brussels officials who are used to traditional sequence of preparations of such negotiations. It was agreed to draft a negotiating mandate for approval of the EU member states on the basis of the submitted text, while videoconferences between Baku and Brussels were quite frequent. After a crackdown the regime inflicted on the independent civil society, with many arrests and devastating limitations of the operational space for independent NGOs in 2014-2015, it seems the EU is not willing to include any systematic conditionality related to the release of political prisoners and change of policies regulating the operations of civil society organizations in the country into the Partnership Agreement.⁴ Allergy towards human rights activists is widespread in Brussels now whenever Azerbaijan comes up and the country's Mission to the EU is putting much effort into improving

the image of the country. So far, the EU has promised more funding, an aviation agreement and support to trade in exchange for Azerbaijan caring for European interests in the energy area (Southern Corridor) and security (Azerbaijan as a role model for anti-radicalization of Islam). As one EU official put it at an event in Brussels, "the period of romanticism is over". The country managed to stay under the Russian radar for some time, which became untenable due to the developments in Turkish-Russian relations. With the recent escalation at Nagorno-Karabakh, the country managed to change the "mental" status quo and projected its military power. It is clear that the EU will not go beyond the existing international framework (OSCE) in order to mediate the Nagorno-Karabakh crisis. Russia was quick to step in with diplomatic solutions and its plans for the region are complex, with one of the key aims to increase its military presence and to destabilize Georgia.

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In this context, the *ENP review* is not a strategic revision, but merely an adjustment to a changing reality that is driven by many variables, which are neither generated, nor controlled by the EU policies. From the nature of the EU policy process, the ENP review is a compromise enacted by the member states, the EU institutions and between, at least, East vs South neighbourhood cleavage. It is quite ambitious in the context of how the EU works, given especially the complex institutional nature of any review of the sort, but it does not carry a strong message to the outside in response to some of the challenges identified above such as, for example, the membership prospect for the frontrunners in the East. However, this should not come as a surprise.

⁴ After pressure from the civil society but also the European Parliament and other players, some political prisoners, namely Leyla and Arif Yunus were released at the end of 2015. After the visit of VP/HR Frederica Mogherini to Baku at the beginning

of March 2016 and also thanks to the than upcoming visit of president Aliyev to the US, more, allegedly 14, political prisoners were released from jail on March 17, including Rauf Mirkadirov, Anar Mammadli, Rasul Jafarov.

Set of frameworks

What is surprising, on the contrary, is that the review does not present a coherent guideline with hierarchized priorities but a mere mix of old and new frameworks with hierarchized priorities listed as menu a la carte for the neighbours, which risk to prove counterproductive in their implementation. Good governance, democracy, rule of law and human rights represent, for example, a self-standing framework (chapter IV.) elaborating mostly on existing tools and priorities that will form a “baseline” of the policy. A clear link to the key chapter on proposed joint priorities for cooperation (chapter V.) is missing. This key chapter provides a menu for further cooperation with partners and suggests: economic development for stabilisation, trade, economic modernisation and entrepreneurship, employment and employability with focus on youth, partnerships for growth, transport and connectivity, energy security and climate action, and security dimension and migration and mobility⁵. The focus on these priorities should deliver and result in stabilization, which is defined as the most urgent challenge in the next three to five years in the EU neighbourhood.

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As regards the “how to do it” part of the text, the new thinking aims to reduce the cooperation (with some countries) to a set of selected partnership priorities (maximum three) in response to an underperforming

incentive-based approach (“more for more” principle). This “fewer and bigger” approach should allow for a concentration of resources and more focused action, in line with the EU interest⁶ while also allowing to raise the EU’s PR profile. One outstanding problem is the selection of partnership priorities, which is not clearly defined in the document besides a greater involvement of EU member states. This process will be based on the intergovernmental principle with very limited or no involvement of local civil society and other non-governmental actors. It will provide full control to the political leaderships of the partner countries over the process regardless of the opinion of the societies, and with the conditionality long forgotten by the EU. This should be prevented. The over-enhanced bilateral bias can even be damaging for many issues like environment or security that should be tackled and encouraged to do so by the neighbours in the wider framework. Although the future of the multilateral path (e.g. Eastern Partnership) is not questioned in the document, the reality already goes the other way. The implementation of the reviewed ENP will further support the trend.

Furthermore, the irreversibility of reforms that have been and will be introduced in the neighbourhood, and that are often costly for the EU, is not tackled. The question of how to ensure that there is no unnecessary backsliding due to any underperformance, or how to prevent a “scratching the surface” approach cannot be answered without effective leverage in place. As funding has now literally become the magic word across the region, and given the experience with direct budget support the EU made, the enhanced transparency and full access to information on the EU funding should be granted to international and local watchdog organisations, at least.

⁵ Security dimension and migration and mobility are both rather comprehensive frameworks and would require further analysis in terms of what kind of offer is actually on the table.

⁶ Also the formula to associate neighbours of neighbours, especially in the field of energy, looks well on the paper and should

serve the EU interests. In reality, we are talking about countries such as Kazakhstan and Turkmenistan in relation to Eastern neighbourhood, with poor transparency in almost every aspect, including the estimates of oil and gas reserves.

Conclusion

This brief addressed only a couple of issues stemming from the new document. Meanwhile, it is clear that the old policies have not worked well for various reasons - one of them being the internal incoherence of the EU and the multiplicity of internal challenges that needed to be answered; the current policy line might bring about control over at least some processes in the neighbourhood and strengthen some functions of the neighbouring states. If the end goal is defined as stabilization in the short-term, it is illusory to think it can be achieved by this approach without dealing efficiently with the policies of the Russian administration. The ENP review definitely does not present a comprehensive agenda for democratic transformation, which is key to long-term stability. Those parts of neighbouring societies that dedicated their professional lives and, in some cases, personal safety, to bringing their countries closer to European standards will be most likely

disappointed by the realistic policy turn taken by the EU, despite renewed promises of funding programmes and improved funding flexibility. What they need is the political weight of the EU being thrown behind them when they strive to achieve standards that challenge their leaders and established societal patterns.

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