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# THE REFORM OF THE EUROPEAN NEIGHBORHOOD POLICY



*Tools, Institutions  
and a Regional Dimension*

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BRATISLAVA 2008

This policy paper is an outcome of the research project titled *Regional Strategic Framework for the EU's Eastern Policy: Toward a Convergence of the Eastern Dimension of ENP and Common Spaces with Russia* supported by the **Friedrich Ebert Stiftung**. It was printed also with the support of **Ministry of Foreign Affairs of the Slovak Republic**.

The international conference on *The Reform of the European Neighbourhood Policy: Tools, Institutions and Regional Dimensions* was held in Bratislava on 21 November 2008 with the support of the **Ministry of Foreign Affairs of the Slovak Republic**, the **Friedrich Ebert Stiftung**, and the **Representation of the European Commission in the Slovak Republic**. The conference proceedings focused on discussion of the issues brought up by this paper.

The authors of the paper are research fellows of the Research Center of the Slovak Foreign Policy Association. The content of this paper reflects the opinion of the authors.

Vladimír Benč: 2.8, 5

Vladimír Bilčík: 3, 5

Alexander Duleba: Introduction, 1, 2.6-7, 5

Lucia Najšlová: 4, 5 and editing

Reviewed by Michael Emerson.

Proofread by John Connolly.

Design & Print: Renesans, s. r. o.  
[www.renesans.sk](http://www.renesans.sk)

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Bratislava 2008

ISBN 978-80-89356-04-1

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# INTRODUCTION

The purpose of this policy paper is to draft a proposal on the reform of the European Neighbourhood Policy (ENP) towards the EU's Eastern neighbours. This policy paper will explain why the EU needs a comprehensive regional dimension of its Eastern neighbourhood policy<sup>1</sup>; identify the flaws in the existing framework and suggest recommendations for its improvement.

At present, the EU applies several frameworks to development of relations with its Eastern neighbours: Common spaces with Russia within the EU-Russia bilateral framework; the European neighbourhood policy in relations with Ukraine, Moldova, Armenia, Georgia and Azerbaijan; and third are the EU's frozen relations with Belarus. These three policies represent the EU's three different and separate Eastern policy agendas or, in other words, parallel EU policies towards its Eastern neighbours. We argue that a single strategic framework is necessary. Any reform of the ENP in/and for Eastern Europe should lead to a gradual convergence of the existing strategic frameworks. It implies that there will be no effective EU policy towards Russia without adapting it to the ENP in/and for Eastern Europe and vice versa there will be no successful ENP in Eastern Europe without adapting it to the EU policy towards Russia.

The EU has one more important process going on in the East - the accession negotiations with Turkey. We argue that an efficient policy towards the Eastern neighbourhood needs to take into account Turkey's role in the region and to take advantage of the special status the country has with the EU after the negotiations have started. The EU must be careful not to give the impression that the ambition is to remove Turkey from a candidate list and put it into the neighbourhood basket. Quite the opposite - the situation on the ground suggests that the progress of the accession

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1 The Eastern neighbourhood is defined in this paper as: Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia, and Ukraine.

negotiations might also be an important factor in the EU's relations with the neighbourhood.

The policy recommendations on the reform of the Eastern ENP presented in this paper are based on the evaluation of the present ENP and its instruments. This paper examines the actual implementation of the *Action Plan* as an ENP instrument in terms of both its content and its institutional framework following the lessons learned from the experience of Ukraine. It assesses new ENP instruments that have been introduced during the EU presidencies of Finland and Germany (2006-2007) under the ENP Plus proposal, especially when it comes to the strengthened sector policy dialogue and prospects for the accession of ENP countries to European Community Programmes and Agencies. It pays attention also to the European Neighbourhood and Partnership Instrument (ENPI) in terms of its coherence with the aforementioned ENP policy planning and implementing instruments. In addition, the policy paper examines the existing regional frameworks for the ENP, and, particularly, the recently presented Polish-Swedish initiative on Eastern Partnership, with the aim of exploring modalities for establishing a functional regional framework for the ENP in Eastern Europe as a consistent part of EU regional policy towards Eastern Europe.

# 1. THE STATE OF THE ENP

## 1.1. INITIAL SHAPE OF THE NEIGHBOURHOOD POLICY

The current ENP was constituted in 2004 as an outcome of the EU debate during the period of 2002-2004 starting with the *New Neighbours Initiative* (2002) and the *Wider Europe* concept (2003). The aim of the ENP was to adapt the enlarged EU to its enlarged neighbourhood, and to support the transformation process in neighbouring countries in line with EU standards.

The ENP had an ambition to become a universal “modernization” policy making no distinction between the EU’s neighbours in the South and East. The main universal instrument of the ENP came to be the *Action Plan*. The Action Plan is a policy document negotiated between the EU and the ENP country, based on the country’s needs and capacities, as well as its and the EU’s interests. The Action Plan itself is not a binding agreement between the EU and the respective ENP country. The EU has however offered the joint Action Plans only to those ENP countries that were already in an established contractual relationship with the EU through Association Agreements (AA) and/or Partnership and Association Agreements.

The Action Plan defines the agenda of political and economic reforms in order to bring the respective ENP country into line with EU standards by means of short and medium-term (3-5 year) priorities. It covers a large range of issues starting from political dialogue and reform, economic and social cooperation and development, trade-related issues and market and regulatory reform, cooperation in justice and home affairs, sector cooperation (e.g. transport, energy, information society, environment, research and development) and a human dimension (people-

to-people contacts, civil society, education, public health, etc.). The incentives in return for progress on relevant reforms are: greater integration into European programmes and networks, increased assistance and enhanced market access. The main financial tool of the ENP is the European Neighbourhood and Partnership Instrument (ENPI), first introduced in the EU financial perspective of 2007-2013. The ENPI grew out of the former TACIS instrument (Technical Aid to the Commonwealth of Independent States) aimed at assisting the former Soviet countries during the period of 1991-2006.

The main ambition of the ENP from the very beginning was to go beyond the horizon of the CFSP and the character of merely external relations with third countries. The ENP partner countries were given the prospect of participation in the EU's integrated area of four freedoms if they implemented the respective EU acquis.

## 1.2. STRATEGIC DILEMMAS OF THE EU

### 1.2.1. Foreign versus enlargement policy

It became a turning point in the history of the EU when the enlargement policy became part of its foreign policy. The accession of three relatively poor and post-authoritarian South European countries in the 1980s - Greece, Portugal and Spain - had a profound impact on both the institutional framework and financial arrangements within the then European Economic Community (EEC). It pushed the EEC to seek a new institutional framework, which ultimately resulted in the adoption of the Maastricht Treaty (valid from 1993) which transformed the EEC into the European Union.

The accession of economically less-developed and relatively poor countries forced the Union to develop new solidarity instruments in order to maintain the political stability and economic prosperity of its new members. Finally, this enlargement brought a new dimension into the Union's external policy. The Union became a key international actor in Europe by exporting prosperity and stability to countries seeking freedom and democracy.

The main ambition of the ENP from the very beginning was to go beyond the horizon of the CFSP and the character of merely external relations with third countries. The ENP partner countries were given the prospect of participation in the EU's integrated area of four freedoms if they implemented the respective EU acquis.

The accession of Greece, Portugal and Spain prepared the Union for its present role in Europe, providing an understanding of its foreign policy goals, its further enlargement policy and, in particular, the admission of the group of eight post-communist countries in 2004.

### **1.2.2. European neighbours versus neighbours of Europe**

The initial shape of the ENP that made no regional distinction was more a result of a political compromise between the “pro-South” and “pro-East” fan clubs of the EU member states than a policy driven by realities on the ground. Soon it became apparent that a supra-regional universalism of the ENP was an unsustainable concept. The Mediterranean area and Eastern Europe are different regions with different needs and challenges. Therefore, they require different policies.

The Eastern neighbours of the EU are European countries. Unlike the Southern neighbours the Eastern ones are already a part of the Treaty on European Union, Article 49 of which states, “any European state which respects the principles set out in Article 6(1) may apply to become a member of the Union.”<sup>2</sup> The strategic significance, the immediate physical proximity as well as the size of these countries are determining factors that distinguish EU dealings with its eastern neighbours from EU relations with countries in Asia or in Africa. This does not automatically mean, however, that all European countries in the end must or will be EU members.

East European countries are still facing fundamental problems with their post-communist modernization. The EU can do nothing but help them on that course. Otherwise, Europe will consist of two different Europe(s) with a growing potential for misunderstandings and possible collisions and conflicts. If the EU fails to develop an inclusive pan-European policy it will lose its strategic initiative in Europe, which will sooner or later undermine

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2 Morocco applied for EU membership in July 1987; however, the European Council refused Morocco's application, claiming that it was not considered a European country; therefore it was not eligible to join the EU.

If the EU fails to develop an inclusive pan-European policy it will lose its strategic initiative in Europe, which will sooner or later undermine its internal coherence and functioning. The EU will never become a real international actor in the world if it fails to be the first actor *in Europe*.

Unless the EU is able to address both the regional framework of interactions between regional actors and country-to-country relations in Eastern Europe, it will be less effective in its separate dealings with each of them.

its internal coherence and functioning. The EU will never become a real international actor in the world if it fails to be the first actor *in Europe*. Moreover, one could argue that a new Eastern policy for the EU is one of the basic preconditions for revitalizing the post-2004-enlargement EU as a “European project” as such. In short, the EU should strive to offer its own vision of Europeanized East European neighbours including Russia.

### 1.2.3. Bilateral versus regional multilateral approach

The main deficit of the existing EU policy towards the Eastern neighbourhood so far has been the absence of a regional multilateral format for interaction with East European countries.

It has already been long evident that the EU’s key interests in the region of Eastern Europe are of a regional nature.<sup>3</sup> In other words, every agenda that challenges the EU’s interests in the region extends beyond the borders of any single East European country. The EU has so far focused only on the bilateral dimension, despite the fact that relations and interactions between East European countries, e.g. Russia-Ukraine, Russia-Belarus, Ukraine-Moldova, etc., do represent an important factor, affecting both the EU’s efficiency and its ability to pursue its interests. Unless the EU is able to address both the regional framework of interactions between regional actors and country-to-country relations in Eastern Europe, it will be less effective in its separate dealings with each of them. Belarus is a good example of such a “toothless” EU policy.

The EU needs to interconnect its ENP policy in Eastern Europe with its common spaces agenda with Russia. Otherwise, the EU will have to pursue its own interests in the region by incrementally addressing country-to-country relations that have an important impact on EU interests. Creating regional policy instruments and/or cooperation formats with participation of the EU, ENP countries and Russia does not mean that the EU should give up on

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3 E.g.: security of energy supplies, combating illegal migration, developing transport infrastructure, improving environmental protection, dealing with regional conflicts, etc.

the existing bilateral framework of its relationships with Eastern neighbours, be it action plans or common spaces.

The first attempt of the EU to address the above strategic deficiency in its Eastern policy was the Black Sea Synergy (BSS) initiative launched in March 2007. The BSS was a right step in the right direction. However, due to many reasons, which are analysed in this paper, it has not become a “regional solution” for the EU in Eastern Europe.<sup>4</sup> The Eastern Partnership might go the same way if it is developed without learning crucial lessons from the BSS.

### 1.3. A NEW DYNAMISM OF THE ENP AFTER 2006

Eastern Europe has been changing dramatically over the last couple of years since the ENP was launched in 2004. Breaches of energy supplies from the region to the EU due to conflicts between Russia and its neighbours, Russia’s success in establishing almost a total control over Central Asian natural gas resources, the failure of the “Orange Revolution” followed by a long-lasting political crisis in Ukraine, a more oppressive regime in Belarus after Lukashenka’s “re-election” in March 2006, etc. was finally followed by a rebirth of Russia’s “old-fashioned policy” that resulted in her military intervention against Georgia in August 2008. All these are new realities that challenge the strategic interests of the EU and its member states. Developments over the last couple of years have proved that the EU needs to rethink and to adapt its policies towards both Russia and the ENP countries in its Eastern neighbourhood.

The ENP has got new impulses thanks to the EU presidencies of Finland in the second half of 2006 and Germany in the first half of 2007.<sup>5</sup> Thanks to a coordinated effort

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4 See part IV of this paper “Developing the Regional Dimension(s)”

5 These impulses also stemmed from the joint work of Finnish and German experts. See Iris Kempe & Hanna Smith, *A Decade of Partnership and Cooperation in Russia-EU relations. Perceptions, Perspectives and Progress – Possibilities for the Next Decade*. A Strategy Paper for a conference in Helsinki on 28-29 April 2006.

during their successive EU presidencies, including close interaction with the Commission, both countries managed to advance the strategic framework for EU policy towards Eastern Europe. First of all, the Finnish and German presidencies took the first real steps to address the missing “regional component” of the Eastern ENP. In addition they have opened a new dimension of ENP in the field of sector cooperation between the EU and ENP countries; including the introduction of new ENP instruments such as the sector agreement, a thematic (sectoral) dialogue and the possibility for the accession of ENP countries to the European Community Programmes and Agencies. Let us sum up the most important shifts in the ENP after the presidencies of Finland and Germany.

The Finnish and German presidencies took the first real steps to address the missing “regional component” of the Eastern ENP. In addition they have opened a new dimension of ENP in the field of sector cooperation between the EU and ENP countries; including the introduction of new ENP instruments such as the sector agreement, a thematic (sectoral) dialogue and the possibility for the accession of ENP countries to the European Community Programmes and Agencies.

First, Finland during its presidency in the second half of 2006 adjusted the EU Northern Dimension initiative to the cooperation structure of the EU-Russia Common Spaces. The Northern Dimension established in 1997 addresses the special regional development challenges of Northern Europe. In the external and cross-border policies of the European Union it reflects the EU-Russia relations (and particularly EU – North-West Russia) in the Baltic Sea region and the Arctic Sea region. It addresses the specific challenges and opportunities arising in those regions and aims at strengthening dialogue and cooperation between the EU and its member states, the northern countries associated with the EU under the EEA (Norway and Iceland) and the Russian Federation. Even though, apart from Russia, the Northern Dimension does not include any other non-EU country, the Finnish initiative of 2006 was particularly important since it outlined a model for the possible future adaptation of the ENP framework in Eastern Europe to the EU-Russia Common Spaces.

Second, the Commission issued its “Communication on Strengthening the European Neighbourhood Policy” at the end of the Finnish presidency on 4 December 2006.<sup>6</sup>

6 “Communication from the Commission to the Council and the European Parliament on Strengthening the European Neighbourhood Policy”. Commission of the European Communities, Brussels, 4 December 2006, COM(2006)726 final.

The Communication reflects the main ideas of Germany's ENP Plus proposal, including *sectoral agreement* as a new instrument for the ENP.<sup>7</sup> The Communication calls for building a *thematic dimension* to the ENP, which is a slightly different name, with however the same substance, for a regional and sectoral cooperation framework for EU interaction with ENP countries. The Communication also states that there is an urgent need for multilateral agreements between the EU and ENP countries, especially in the energy and transport sectors. It proposes a way to achieve such an arrangement by extending the Energy Community Treaty to ENP countries that are both willing and ready to adopt respective EU sectoral acquis. The Communication lays foundations for developing an EU regional policy and a cooperation framework in its Eastern neighbourhood.

Third, another new element of the ENP following the Communication is a possibility for the ENP countries to participate in the respective *Community Programmes* and *Agencies*. The Commission has been given a mandate to develop Community Programmes for ENP countries that represent a qualitatively new ENP instrument leading beyond the horizon of the original concept of the neighbourhood policy expressed in the well-known statement of the former Commission President Romano Prodi "everything but institutions". The ENP countries that will qualify for Community Programmes are to be given access to the respective community policies of the Union as observers in respective EU institutions and agencies. Should the above instruments start to work the ENP will be upgraded into a qualitatively new form compared with the existing framework based on the Action Plan instrument.

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7 "Sechs Thesen zu einer Europäischen Nachbarschaftspolitik PLUS" (July 2006). For analysis see - Duleba, A. The EU's Eastern Policy: Central European Contribution. In a Search for New Approach. (Prague-Warsaw-Bratislava-Budapest: Prague Security Studies Institute, Centre for International Relations, Research Centre of the Slovak Foreign Policy Association, Centre for EU Enlargement Studies, January 2007); [http://www.sfpa.sk/sk/programy/RC\\_SFPA/vyskumne-programy/program\\_ve/?nrok=2006](http://www.sfpa.sk/sk/programy/RC_SFPA/vyskumne-programy/program_ve/?nrok=2006).

Fourth, in the course of Germany's presidency on 11 April 2007 the Commission published its Communication on "Black Sea Synergy – a New Regional Cooperation Initiative".<sup>8</sup> The new initiative became the first attempt in the modern history of the EU's Eastern policy aimed at establishing the regional format for political dialogue between the EU and Eastern ENP countries.

#### 1.4. WHERE THE ENP STANDS TODAY

Following the Commission's communications on ENP<sup>9</sup> and the corresponding Council's conclusions and starting from December 2006, the EU has been advancing the following two main ideas of the Finnish and German presidencies in the area: a thematic/cross-country sectoral dimension and the regional policy framework in view of the Black Sea Synergy initiative, which goes beyond the "ENP borders" in the East.

The new formula of neighbourhood policy proposed by the EU to those ENP partners who are both *willing and ready to go beyond the Action Plan* could be summarized as follows: "contractual sectoral relationship based on two fundamental principles – obligatory approximation to the respective EU sectoral acquis and access to the EU sectoral programmes and institutions". The above idea reflects the essence of the German ENP Plus proposal of 2006. Although the subsequent EU documents do not mention the originally proposed ENP Plus instrument under the name of "sectoral agreement", access to the Community programmes and agencies assumes that the ENP countries should conclude the respective sectoral agreements and/or protocols.<sup>10</sup>

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8 "Communication from the Commission to the Council and the European Parliament on Black Sea Synergy – A New Regional Cooperation Initiative". Commission of the European Communities, Brussels, 11.04.2007, COM(2007)160 final.

9 COM(2006) 724 final, COM(2006) 726 final, COM(2007) 160 final, COM(2007) 774 final, COM(2008) 164 final, the Commission staff working document SEC(2008) 403

10 COM(2006) 724.

In this way, the EU has evolved a new higher level of the ENP which goes beyond the horizon of its original definition “everything but institutions”. The first level of ENP means that the EU dialogue with an ENP country on political and sectoral issues follows the Action Plan, which is a political document that has no binding implications either for an ENP country or for the EU. The accessing protocol of the ENP country to a Community programme and/or agency means that the respective sectoral dialogue is/will be framed by a binding agreement. The approximation to the EU acquis and access to the EU institutions will in the end call into existence a common sectoral space between the Union and the ENP country and/or a kind of “sectoral integration” with the EU for it.

The Presidency’s report of June 2007 has identified Ukraine, Israel and Morocco as being the most likely neighbours to participate in the Community programmes. Ukraine and Moldova are the first ENP countries to be invited to join the Energy Community Programme. And finally, Israel became the first ENP country to conclude the negotiations on establishing the protocol enabling it to participate in the Entrepreneurship and Innovation Programme (under the Competitiveness and Innovation Programme), which has entered into force in February 2008.<sup>11</sup> At the end of 2007 Israel was engaged in consultations concerning its participation in other community programmes. Morocco and Ukraine are in the process of identifying their interest in which Community programmes they want to participate in.

Both Morocco and Ukraine are expected to conclude their first respective protocols with the EU during the year 2008. Egypt, Lebanon and Moldova have also expressed their interest in participation in the EU’s Community programmes. With the beginning of the 2007-2013 Financial Perspective, the Regulations establishing numerous new Community programmes entered into effect. They declare ENP partner countries eligible to participate in seven

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11 SEC(2008) 403.

Community programmes<sup>12</sup> and to cooperate with the EC in certain activities of a further fourteen Community programmes.<sup>13</sup>

The year 2008 has also brought the following two new initiatives onto the EU table regarding the regional framework for the ENP. First, the EU summit in Paris has endorsed the Commission's proposal on an upgrade of the Barcelona Process under the French presidency initiative on Union for the Mediterranean on 13 July 2008.<sup>14</sup> Second, the Polish-Swedish initiative on Eastern Partnership has been presented at the GAERC ministerial meeting on 26 May 2008.<sup>15</sup> Both initiatives drift the ENP towards a regionally structured concept making increased distinction between the Southern and Eastern neighbours.

### 1.5. THINKING ABOUT A FOLLOW-UP

In sum, after a four-year existence the ENP has evolved the following instruments: Action Plan, strengthened sectoral dialogue (via a thematic dialogue and the possibility for ENP countries to conclude sectoral agreements with the EU, including to accede to Community Programmes and Agencies), and finally, new formats for regional cooperation in the shape of the Black Sea Synergy, the Union for the Mediterranean, and the Eastern Partnership. In the aftermath of the Georgia crisis in August 2008, one could conclude that there is a political consensus between the EU member states that ENP should become more instrumental in terms of both strengthening the EU presence in the region of Eastern Europe and achieving its foreign

In the aftermath of the Georgia crisis in August 2008, one could conclude that there is a political consensus between the EU member states that ENP should become more instrumental in terms of both strengthening the EU presence in the region of Eastern Europe and achieving its foreign policy goals vis-à-vis Eastern neighbours.

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12 Entrepreneurship and innovation, consumer policy, air traffic control, energy efficiency, information and communication technology, and public health.

13 The programmes included financial control, JLS cooperation, transport, information society, disaster response, research, education, culture, audiovisual and youth policies

14 COM(2008) 319 (Final).

15 "Polish-Swedish paper with the support of the incoming Czech Presidency. Elaboration of the Eastern Partnership" (3 October 2008; 10 p.).

policy goals vis-à-vis Eastern neighbours.<sup>16</sup> A number of questions are however still pending.

First, what should be the future of the Action Plan (AP)? Moldova and Ukraine are the first Eastern neighbours to have implemented their neighbourhood policy Action Plans in 2007. The AP in the case of Ukraine and Moldova has been prolonged until both countries sign new post-PCA agreements with the EU. Should the EU insist on preserving the AP as a policy tool regardless of an achieved contractual relationship with an ENP country in the East? For example the EU Association Agreement with its most advanced neighbour in the South, Morocco, came into force in 2000 while Morocco agreed its AP with the EU in 2004. In other words, there was no direct chronological relationship between the Association Agreement with Morocco and its AP. This paper argues in favour of preserving and developing the AP as a special and universal tool of ENP in EU relations with Eastern neighbours, regardless of any future status or shape of their contractual relationship with Eastern neighbours.

Second, if so, what should be the changes of the AP in terms of its content and institutional framework so that it could work better in line with the interests of both the EU and its Eastern neighbours? What are the lessons learned from the experience of Ukraine in implementing its AP? What should be changed in the AP's institutional framework in order to make it a workable and more effective tool? How is the AP to be reformed so that it will enhance the EU commitment in dealing with neighbours? Actually, the Eastern Partnership proposal calls for a "new generation of Action Plans" for Eastern neighbours. What does that mean in real terms?

Third, should a new AP continue to cover sectoral issues if the EU has been developing new ENP instruments in the field of sectoral cooperation since 2007? Should the AP agenda overlap with the agenda addressed by relatively new sectoral instruments? This paper argues that one of

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16 "Extraordinary European Council, Brussels, 1 September 2008. Presidency Conclusions". Council of the European Union, 12594/08, CONCL 3.

the crucial preconditions for a successful ENP in the future is a clear division of labour/role between the ENP instruments. AP should serve primarily as the ENP tool in the area of political modernization of ENP countries while the new sectoral tools should be evolved in a way to deal primarily with their sectoral modernization. There is a need to separate the above two critical modernization agendas and the respective tools of the ENP in order to eliminate its present ambiguity. The ENP should become a more consistent and transparent policy framework for both the EU and its neighbours so that both sides know which tools are to be applied and for achieving what goals.

Fourth, when it comes to recent moves of the EU in advancing sectoral instruments after the German presidency in 2007, one can observe a rather unclear and chaotic concept about how to develop them. The development of some sectoral dialogues with ENP countries is going to be founded on sectoral agreements with some ENP countries (e.g. in the field of energy and air cargo services) and in some sectors it will be enough just to manage a thematic dialogue with the ENP countries. Why is the EU going to sign some sectoral agreements with some ENP countries whereas with some other neighbours it plans just to have a thematic dialogue? This paper argues that the EU needs to develop a *universal tool for sectoral modernization* of ENP countries just as it has developed the AP as a universal tool for their political modernization. There is definitely a need to develop the sectoral tools of the ENP in a much more consistent way.

Fifth, if any ENP country is ready to approximate to the respective EU sectoral acquis through a binding sectoral agreement (not a voluntary Action Plan) the EU should open its institutions to such a neighbour to the same extent as it did in the case of the EEA agreement with Norway, Iceland and Liechtenstein. The EEA states can participate in the Internal Market and relevant Community programmes and agencies, albeit with no right to vote. Nevertheless, the EEA states are present in the EU institutions with their experts and have a right to be consulted on any new relevant EU legislation at an early stage of

The ENP should become a more consistent and transparent policy framework for both the EU and its neighbours so that both sides know which tools are to be applied and for achieving what goals.

its preparation. "Observer status for sectoral agreement" has been a fundamental idea of the ENP Plus proposal of Germany that absolutely corresponds with a declared need to enhance the EU commitment vis-à-vis its Eastern neighbours and vice versa. This paper argues that the ENP, if it is expected to become a more instrumental policy in the field of "strengthened sectoral dialogue", should aim at having more sectoral agreements with the ENP countries, more experts from the ENP countries in the "old" EU institutions and having fewer "new" ENP institutions, e.g. an office of special coordinator for Eastern Partnership as is proposed in the recent Polish-Swedish initiative.

Sixth, the big question mark attached to the existing ENP regional initiatives (Black Sea Synergy, Union for the Mediterranean, and the Eastern partnership) is their correspondence with the existing ENP tools for a multilateral sectoral cooperation. None of them says too much about the development of the existing ENP tools (AP and sectoral instruments).

In the current ENP one can see rather a number of fragmented elements: Action Plans, new sectoral instruments, and new regional initiatives. It looks like the ENP has been launched three times already over the last four years, and always as a new concept. The ENP suffers from lack of consistency and conceptual policy planning. It is time to cut across the above vicious circle.

This paper argues that the ENP, if it is expected to become a more instrumental policy in the field of "strengthened sectoral dialogue", should aim at having more sectoral agreements with the ENP countries, more experts from the ENP countries in the "old" EU institutions and having fewer "new" ENP institutions

# 2. REFORMING THE TOOLS

## 2.1. ACTION PLAN: LESSONS FROM UKRAINE

The EU-Ukraine Action Plan was endorsed by the EU-Ukraine Cooperation Council on 21 February 2005. It specified 14 priorities for action<sup>17</sup> and 71 goals to be implemented within 6 sector chapters: Political dialogue and reform - 15 goals; Economic and social reform and development - 9; Trade, market and regulatory reform - 21; Cooperation in Justice and Home Affairs;<sup>18</sup> Transport, energy, information society and environment - 17; People-to-people contacts - 9. Subsequently, the Ukrainian government has adopted three annual action plans to implement the EU/Ukraine AP priorities and goals for 2005, 2006 and 2007. The implementation plan of the Ukrainian government for 2005 consisted of 177 actions/measures of a legislative and administrative nature (implemented through 361 tasks for the ministries and governmental agencies), 145 actions/measures for 2006, and 133 for 2007 respectively. Altogether Ukraine has implemented more than four hundred actions over the three years of 2005-2007 with the aim of meeting the goals of the EU/Ukraine Action Plan.

The implementation process of the AP in Ukraine could be divided into five main phases: 1) setting out joint (bilateral EU/Ukraine) priorities and goals; 2) drafting annual implementation action plans (for 2005, 2006, and 2007) by Ukrainian authorities; 3) setting out the implementation mechanism in Ukraine (coordination mechanism/and national monitoring and reporting);

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17 See *EU/Ukraine Action Plan*, 2005, Introduction

18 Cooperation in Justice and Home Affairs between the EU and Ukraine follows the *EU/Ukraine Action Plan on Justice and Home Affairs* of 10 December 2001, which has been incorporated into the *EU/Ukraine Action Plan* on 21 February 2005.

4) national evaluation of the implementation in Ukraine before reporting to the European Commission; and 5) evaluation by the European Commission. Let's follow the above implementation process of the AP in Ukraine and look for the main lessons that could be learned in order to improve the AP as an ENP tool.

The AP priorities were postulated by the Commission and not so much by the Ukrainian government. The Commission determined the priorities for the Ukrainian AP following its country report on Ukraine of May 2004. If one compares the Commission's recommendation to the Council on the implementation of the AP with Ukraine with the final version of the bilaterally signed AP document one could hardly find big differences. At the same time the Ukrainian side prepared its own proposal on how to draft "joint priorities". However, according to one of the Ukrainian officials who participated in the talks with the Commission, in order not to complicate the talks Ukraine accepted most of the Commission's proposals.<sup>19</sup> *Lesson no. 1 is thus:* if the AP is intended as a universal and "tailor-made" instrument for the neighbouring country, it should be a "joint business" of the EU and the partner country from the very beginning. It was however not so in the case of Ukraine and that is not just true when it comes to the initial formulation of priorities for a Ukrainian AP.

After signing the AP, the Ukrainian government adopted three annual implementation plans for 2005, 2006, and 2007. The crucial questions are: how have the priorities/goals of the Action Plan largely set out by the Commission been transposed into the concrete actions of the Ukrainian government? Who has identified the actions to be implemented in Ukraine and who has decided that exactly these ones, including their number and scope, are the most applicable/adequate to meet the goals set out in the AP? How was the Ukrainian government already able to identify

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19 Within the research project we have interviewed Ukrainian officials who have been engaged in AP implementation in Ukraine, including some of them who participated in the talks with the EU on the AP for Ukraine from the very beginning.

actions for 2006 in April 2005 considering the fact that the Commission had only released its first progress report on Ukrainian AP in December 2006? What was the point of reference for the Ukrainian authorities so that they would know they were doing the “right things” and moving in the “right direction” after the completion of the 2005 plan and before drafting the 2006 one?

According to our research findings the Ukrainian government had unilaterally identified the actions to be taken in order to meet the goals of the AP without any adequate response/evaluation from the Commission until the first progress report of December 2006. Unlike the Commission in the first phase of the definition of the priorities for the AP when it postulated them on the basis of its country report on Ukraine of May 2004, the Ukrainian government did not make any special feasibility study and/or a complex assessment of the situation in the respective Ukrainian sectors vis-à-vis the EU acquis in order to identify the most advisable actions to come closer to EU standards. *Lesson no. 2* is then: the actions implemented by the ENP country do not necessarily correspond with the priorities of the AP largely determined by the Commission. Due to the lack of participation of the Commission in phase two, the ENP country carries out many activities that do not necessarily lead closer to EU standards.

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In order to implement the AP, the Ukrainian government had created the Coordination Council for Approximation of Legislation to the EU Acquis headed by the Prime Minister and established the Department for European Integration at the Office of the Government. As to its resolutions no. 117-p/22 April 2005, 243-p/27 April 2006 and 238-p/26 April 2007, the Ukrainian government has tasked the Ukrainian parts of the EU-Ukraine Cooperation Council and the EU-Ukraine Cooperation Committee's subcommittees to monitor the performance of ministries and governmental agencies in implementing the tasks of the annual Ukrainian action plans.<sup>20</sup> The subcommittees have been reporting the results to the Ukrainian part of the EU-Ukraine Cooperation Committee (EUCC), which

<sup>20</sup> See “Pro zatverdzhennya zakhodiv...”

subsequently was assigned to report to the EU part of the Committee and to the Ukrainian government. The EUCC was created by the EU-Ukraine Cooperation Council, which was established by the PCA of 1994 (in force since 1998). Actually, the seven sub-committees operate under the umbrella of the EUCC as follows: subcommittee no. 1: Trade and investment; no. 2: Economic and social issues, financing and statistics; no. 3: Business environment, competition, cooperation in regulatory area; no. 4: Energy, transport, nuclear energy and ecology; no. 5: Customs and cross border cooperation; no. 6: Justice and home affairs; and no. 7: Science and technology, research and innovation, education, culture, public health, information society.<sup>21</sup> The number of meetings of the EU-Ukraine sub-committees in 2007 was five, while there was no meeting at all of SC no. 3. The April 2008 progress report of the Commission states that “overall evaluations of Ukraine’s performance in meeting the goals of the AP have been carried out in November 2005, March 2006 and May 2007”.<sup>22</sup>

*Lesson no. 3* is thus: Ukrainian experience shows that the annual evaluations done by the Commission of the ENP countries’ progress in implementing their AP is insufficient in terms of providing a reference point for further actions. The frequency of meetings of the joint subcommittees shows that they cannot serve as a relevant channel for interaction between the Commission and the ENP country during the process of implementation of the AP. If the AP is to become a relevant ENP tool it should be equipped with much more of an ENP country-friendly, intense and flexible institutional framework.

Evaluation of the Ukrainian authorities’ performance in meeting the goals of AP in both progress reports of the Commission, including the joint Commission/Ukrainian government one as of March 2008, is a rather positive one with references to some goals still to be met and the respective actions to be taken. Nevertheless, the general evaluation of the Commission concerning Ukraine’s achievements within the AP over the three years (2005-2007) is

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<sup>21</sup> See *Rozpodil kompetentsiyi*, 2005.

<sup>22</sup> SEC(2008) 403.

the following one: “good progress has been achieved in the implementation of the EU-Ukraine Action Plan”.<sup>23</sup> However, the official evaluation of the Commission and the Ukrainian government differ profoundly from the independent evaluations done by Ukrainian think tanks and NGOs.

A good collection of critical evaluations by NGOs can be found on the internet portal *Yevropeyskyy Prostir* (European Space), which specializes in Ukraine’s relations with the EU as well as serving as the communication channel for Ukrainian NGOs active in the European integration process. Vitaliy Martyniuk<sup>24</sup> in his assessment of the actions of the Ukrainian government notes that many actions planned in the annual actions plan of the Ukrainian government for 2007 have no concrete character, e.g. to hold consultations, to organize meetings, etc. It is difficult to evaluate concrete results of non-concrete actions, he concludes. According to Maxim Latsyba<sup>25</sup> the Ukrainian government did not meet goals of the AP in the area of civil society development<sup>26</sup>. He refers to the fact that in its three annual implementation plans the Ukrainian government set out 7 actions to meet goal no. 6 of the AP; however, it has implemented only 1 of the planned 7 actions.<sup>27</sup>

The Ukrainian think tank *Laboratoriya zakonodavchykh initsiativ* (Laboratory of Legislative Initiatives) researched the progress of the Ukrainian government in chapter 2.1.: Political dialogue and reform, section on Democracy, rule of law, human rights and fundamental freedoms (goals of the AP no. 1-12). They have identified the following six problems: first, lack of effective coordination and interaction between actors involved in the implementation process of the AP in Ukraine; second, lack of concreteness in the AP and the absence of a strategic approach to its

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23 COM(2008) 164.

24 Analyst of the Ukrainian Centre for Independent Political Research and the International Institute for Humanitarian Technologies

25 Ukrainian Centre for Independent Political Research

26 Chapter 2.1.: Political dialogue and reform, goal 6: Ensuring civil society development.

27 [www.eu.prostir.ua](http://www.eu.prostir.ua)

implementation; third, unrealistic deadlines and terms for implementation of the planned actions; fourth, implementation of the actions through normative acts adopted by the government instead of laws passed by the parliament; fourth, a vague formulation of demands on responsible officials and too formal and bureaucratic an approach to the implementation of AP; and fifth, the absence of transparent and measurable criteria both for the evaluation of the implementation process of the AP and the responsibility of bureaucrats for meeting their tasks.<sup>28</sup>

The most comprehensive independent research on the implementation of the AP in Ukraine was carried out by a consortium of Ukrainian think tanks led by the Razumkov Centre<sup>29</sup> within the project entitled Public Monitoring of the Ukraine-EU Action Plan Implementation.<sup>30</sup> They interviewed 103 Ukrainian experts in December 2006 and 101 experts in April 2007. The experts' evaluation shows a growing scepticism in their assessments of the development of EU - Ukraine relations in general and the implementation of the AP in particular. The following are the main findings that could be drawn from the research done within the project:

1) the research showed that there is an absence of transparent and measurable criteria for evaluation of the performance of Ukraine/ENP countries in implementing APs. The EU and Ukrainian authorities did not speak one language in their evaluation of what has been achieved in Ukraine in implementing the AP. In addition, the quantitative method of evaluation of actions taken was not followed by a qualitative method of evaluation, and especially when it comes to the assessment of how much the chosen actions (by Ukraine/ENP country) match the jointly agreed priorities in the AP. In many cases it is not clear how much and why just the very action chosen (rather than any other

There is an absence of transparent and measurable criteria for evaluation of the performance of Ukraine/ENP countries in implementing APs. The EU and Ukrainian authorities did not speak one language in their evaluation of what has been achieved in Ukraine in implementing the AP.

28 See *Ukrayina - Yevropeyskyy Soyuz*, 2007.

29 Ukrainian Centre for Economic & Political Studies named after Olexander Razumkov.

30 See *Natsional'na Bezpeka i Oborona*, no. 7 (67) 2005; *National Security & Defence*, no. 2 (86) 2007; *Ukrayina - YeS*, 2007; and final report of the project in *National Security & Defence*, No. 6/2008.

one) corresponds and/or is best suited to achieve the AP priority. There is a vague definition of the evaluations applied such as “moderate progress”, “certain progress”, “substantial progress”, etc.

2) the expert evaluation done within the project differs considerably from the evaluation by the Commission and the Ukrainian government in some areas of AP, e.g. in the case of the goal of forming a functioning market economy, of improving environmental protection, of reforming the energy sector, etc. Even though the Commission and the Ukrainian government have concluded in their evaluations that the “goal was met”, “substantial progress has been achieved”, etc. in some of the above-mentioned areas, still, Ukrainian experts do not share them. Once again this difference shows how important is a qualitative method of evaluation, which is not applied equally in the official evaluations. Expert evaluation as well as public opinion on developments in some sectors also targeted by the AP differs fundamentally from the assessment of the EU and the Ukrainian government.

3) the above expert scepticism corresponds to the growing scepticism of Ukrainian officials responsible for the implementation of the AP who learned that they did not need to implement so many actions, e.g. in 2007, as they envisaged in the annual plans for 2005 and 2006 since that is not reflected and/or “priced” by the EU.<sup>31</sup> They learned that more actions neither get more responses from the Commission nor are a good thing for their country. The *Lesson No. 4* from Ukraine could be generalized in the following way: Ukrainian experience shows that the lack of transparent and measurable evaluation criteria of the ENP country’s performance in meeting the AP goals is definitely the weakest point of the present ENP as such. Without it the AP can hardly work and serve the EU as a tool to achieve its own goals vis-à-vis ENP countries. The Commission refused Ukraine’s proposal to agree upon the joint and measurable criteria of the AP

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31 See the contribution of Svitlana Kulykova (the head of the European Integration Department at the Office of the Government of Ukraine) in *Ukrayina - YeS*, 2007, p. 39.

implementation.<sup>32</sup> The Commission was ready to “take into consideration” the Position Document of Ukraine, which survived as a sort of a self-evaluation of the Ukrainian government. As to the above document of the UA government, which contains the evaluation of Ukrainian achievements by both the EU and the Ukrainian government when it comes to the implementation of 44 jointly agreed priorities of the AP in the course of 2005-2006, the EU and Ukraine share the same evaluation regarding 18 priorities; the evaluations of the EU and Ukraine differ in 8 priorities, and there is no EU evaluations of Ukrainian achievements in 18 priorities.

*Lesson no. 5:* if the main purpose of the ENP progress reports of the Commission is to serve as a point of reference and a guideline for actions for the ENP countries they should be reviewed and revised. They do not serve that purpose in the best way possible. If one looks at the Commission’s progress reports on Ukraine one can not find even a mention of how many actions Ukraine has implemented within the period of the evaluation, what actions were good and what ones wrong with an explanation of what has been done wrong and why.

*Lesson no.6:* Ukrainian experience shows a gap between the official evaluation of Ukraine’s achievements in implementation of the AP in some areas, e.g. a functioning market economy, by the EU/Commission and the government on one side and public opinion in Ukraine and independent expert assessments on the other. Why is there a gap between the official and independent evaluations, why do officials say “good” and experts and public say “not good” when it comes to evaluation of some of Ukraine’s achievements within the AP? The relationship between “good laws” and “better life” does not work automatically in ENP countries, and especially in the post-Soviet region of Eastern Europe. In this way it could be at least partly explained why the public perception differs from the official one when it comes to the evaluation of an ENP country’s progress. While the Commission and governmental officials monitor whether

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32 Ibidem.

an envisaged legislation has been adopted or not, its implementation usually takes time and this is not subject to monitoring.

After two years of AP implementation Ukrainians learned that they had been too enthusiastic in terms of setting too many actions to implement in the AP. They learned that they did not need to work too much in order to achieve a better evaluation by the EU. This is their “ENP lesson” from their interaction with the Commission and its responsiveness to their activities over three years of implementation of the AP. At the same time, the experience of Ukraine shows that there is still great scope for reform of the existing institutional framework of the AP in order to accelerate cooperation between the EU and its neighbours.

## 2.2. SECTORAL TOOLS: TOWARD

### A MULTILATERAL/REGIONAL DIMENSION

The EU has offered three new sectoral formats for its interaction with ENP countries: first, participation in Community Programmes, second, an access to Community Agencies and third, a possibility to conclude a sectoral agreement. The last one is the first ENP tool establishing a binding contractual relationship between the EU and an ENP country, which is a right step in the direction of enhancing the EU commitment towards its neighbours. In other words, it is a new formula of ENP proposed to those ENP partners who are both willing and ready to go beyond the Action Plan that could be summarized as follows: “contractual sectoral relationship based on two fundamental principles – obligatory approximation to the respective EU sectoral *acquis* and access to EU sectoral programmes and institutions”.

However, when it comes to recent developments in launching new sectoral instruments, one can observe a rather unclear and chaotic concept within the EU about how to develop them. The development of some sectoral

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33 Kulykova, *Ibidem*.

dialogues with ENP countries is going to be founded on sectoral agreements with some ENP countries (e.g. in the field of energy and air cargo services) and in some sectors it will be enough just to manage a thematic dialogue with the ENP countries. Once again, there is lack of a strategic policy consistency aimed at making the best of new sectoral instruments for achieving declared goals of EU policy towards its Eastern neighbours. Therefore, it is important once more to point out key ideas of the German “ENP Plus” proposal of 2006. It would be a strategic mistake for the EU to lose them.<sup>34</sup>

The “ENP Plus” proposal of Germany has addressed the weakest point of the existing strategic framework for EU policy towards its Eastern neighbourhood, namely its until recently exclusive bilateralism in relations with its Eastern neighbours. Sectoral agreement as a tool for exporting the EU acquis to the Eastern neighbourhood could serve both the modernization of the countries concerned and the EU’s regional interests in some key sectors at least. Certainly the EU’s foreign policy could not function in Eastern Europe without this component. The modernization of post-communist Eastern Europe in line with the European model is a vital interest of the EU and sectoral agreement, understood as a tool for expansion of the EU’s legal area, will serve this purpose. The ENP Plus and its sectoral agreement instrument represent an important change in the present EU’s ENP policy. The binding sectoral agreement is supposed to change the voluntary character of the “classic” ENP Action Plan in that an ENP country would decide “how much” of the EU acquis and in which sectors it will implement. What would constitute a real change in this respect would be if sectoral agreements were envisaged as being binding documents for both sides, including the EU.

The name of the new ENP sectoral tool does not matter, rather its essence, which was included in the original German proposal on the ENP Plus. Let it be called the

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34 *Sechs Thesen zu einer Europäischen Nachbarschaftspolitik “PLUS”, 2006.*

“community programme”, but each of these sector community programmes should consist of three basic components: a) binding sector agreement between the EU and the neighbourhood country; b) binding implementation of a respective sector acquis by the neighbouring country; and c) observer statute for the neighbouring country and access to EU institutions that plan and implement the respective sectoral policy of the EU. Together with the Action plan, the Sectoral agreement (or “Community Programme”) as it is understood above, could become a second universal ENP instrument (together with the Action Plan), equal for all sectors and all ENP countries that are ready and willing to sign such sectoral agreements with the EU.

As already mentioned above, the way the Commission is launching the new sectoral tools of the ENP is rather a confusing one since it does not provide ENP countries with a clear perspective of where they are in step with Brussels in the field of sectoral cooperation. In terms of the consistency of further ENP development, it is important that the Community Programme (based on sectoral agreements), as well as the Action Plan become universal and equally applied tools of the ENP. Where a sector agreement is not needed – in some fields the arguments of the Commission are acceptable, mainly in those sectors where there is a weak or no European acquis - let the cooperation in such sectors be called *Thematic Dialogue*, but not a community programme.

In order for a sector agreement, e.g. about energy with Ukraine, to become a substantial instrument leading towards building a regional sector partnership in Eastern Europe, it is necessary for it to be open towards an accession of a third country or third countries, e.g. in the case of signing an energy agreement with Ukraine, the accession of Moldova or other eastern neighbours of the EU. The openness of the sector agreements within the ENP should become their attribute in so far as they should help the EU build regional partnerships in Eastern Europe. Sector Agreements can be at first signed bilaterally, but at the same time they should remain open to further regional multilateralization, which is the basic assumption for

building a treaty anchored sectoral regional partnership with ENP countries in Eastern Europe.

And finally, ENP country/countries that would sign an appropriate sector agreement should gain observer status in the EU institutions that plan and implement the respective sectoral policy. In this, as a next step, the EU should start to lead a *common sector regional dialogue* with these countries. In the case of this dialogue the same should apply as in the case of a sectoral agreement – it should be *open to other countries of Eastern Europe* that did not sign a sector agreement with the EU at that particular time and regardless of whether they participate in the ENP or not. *The regional sector dialogue should go beyond the ENP framework* and should also be open to countries that are not ENP participants. This is how the EU could build up true *Common Sectoral Spaces* with Eastern neighbours. If done in this way it will become a real basis for a functional regional format of co-operation. Otherwise, the regional initiatives proposed so far will continue being politically nice buildings, with no real foundations.

## 2.3. ENP FINANCIAL INSTRUMENTS

### 2.3.1. Lessons learned

Until the end of 2006, EU assistance to the countries of the European Neighbourhood Policy was provided under various geographical programmes, including TACIS (12 countries of Eastern Europe and Central Asia) and MEDA (10 countries of North Africa and the Middle East), as well as thematic programmes such as EIDHR (European Initiative for Democracy and Human Rights).

The TACIS Programme was established in 1991 and its first priority was to help transition countries with their political and economic system transformation. Later on, the programme became a complex and sophisticated system of aid and relations with partner countries. The total allocation for the period of 1991-99 reached the sum of 4.221 bil. EUR, while the contracting level in 2000 reached 86.4% (3.65 billion EUR). Most of the resources were used in the area of nuclear security and environmental protection

(20.16%), public administration reforms, reforms of social systems and education systems (15.0%), restructuring of companies and development of private sector (14.1%), energy (9.0%), agriculture and food industry (8.2%) and transport (6.6%).

**Table 1: Allocations TACIS in mil. EUR**

|  | 1991-1999      | 2000-2001    | 2002-2003    | 2004-2006      |
|--|----------------|--------------|--------------|----------------|
| Armenia  | 58.9           | 10.0         | 10.0         | 20.0           |
| Azerbaijan   | 87.2           | 14.0         | 14.0         | 40.0           |
| Baltic states*   | 15.0           | --           | --           | --             |
| Belarus  | 56.6           | 5.0          | 5.0          | 10.0           |
| Georgia  | 66.0           | 15.0         | 14.0         | 28.0           |
| Kazakhstan   | 111.9          | 15.0         | 12.0         | 21.9           |
| Kyrgyzstan   | 49.5           | 10.0         | 15.8         | 29.0           |
| Moldavia   | 61.8           | 14.8         | 25.0         | 42.0           |
| Mongolia   | 28.5           | 6.0          | --           | --             |
| Russia   | 1,274.0        | 182.0        | 184.0        | 392.0          |
| Tajikistan   | 8.0            | 0.0          | 30.4         | 41.5           |
| Turkmenistan   | 39.9           | 0.0          | 3.8          | 11.5           |
| Ukraine  | 460.8          | 91.0         | 97.0         | 212.0          |
| Uzbekistan   | 102.5          | 15.4         | 22.0         | 28.7           |
| Regional programmes**  | 1,194.8        | 345.9        | 226.6        | 381.0          |
| Donors cooperation   | 308.0          | n.a.         | n.a.         | n.a.           |
| Programme implementation (publicity, monitoring, evaluation) | 254.8          | n.a.         | n.a.         | n.a.           |
| Others***  | 42.9           | n.a.         | n.a.         | n.a.           |
| <b>TOTAL</b>   | <b>4,220.9</b> | <b>724.1</b> | <b>659.6</b> | <b>1,257.6</b> |

Source: EC (2008). \* resources granted in 1991; \*\* including cross/ border programme and nuclear safety programme; \*\*\* small programmes like Programme for democracy (1994-97) and STAP.

In the years 1999-2000 the EC reformed the programme and adopted new legislation<sup>35</sup> to change the system of programming and implementation. It also set up new basic topics of cooperation with partner countries with the aim of making it more focused. Each partner country could select 3 main cooperation topics (+ nuclear safety if relevant) from these topics:

- support of institutional, legislative and administration reform,
- support of private sector and economic development,
- support of solving the social consequences of transformation of society,
- development of infrastructure networks,
- support of environmental protection and good management of natural resources,
- nuclear safety (where appropriate).

The EC also set up minimum limits for projects with the aim of concentrating resources, e.g. minimum limits for Ukraine and Russia were 2 million EUR per project, for other countries 1 million EUR per project. Programming was composed of three levels. The first one consisted of Strategic papers for a period of 5-7 years. The second level was Multiannual indicative programmes which included specified priorities and allocations for each country and were usually planned for 3 years. The third level consisted of annual or biennial action programmes that specified concrete programmes and projects for a certain year. Various regional programmes usually included neighbouring countries (e.g. Regional programme for Central Asia) and they were mostly concentrated on environmental protection, trade and transport and the area of home affairs and justice (including border protection). Two special programmes were established – TACIS for cross-border cooperation and TACIS for nuclear safety.

Because of difficulties in programming and preparation of the strategic documents during the years 2000-01 projects were implemented on the basis of not/used

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35 Council Regulation (EC, Euratom) No. 99/2000 of 29 December 1999.

resources from the period 1991-1999. First indicative programmes were created for the period of 2002-2003 and later on that of 2004-2006. After approval by the EC, the tender and grant procedures took place, in which institutions from the EU member states, candidate countries and partner countries could participate. For the budgetary period (2000-2006), the funds available for partner countries were approximately 3.1 billion EUR and European Investment Bank lending was 500 million EUR for allocation to TACIS countries.

For the budgetary period (2000-2006), the funds available for partner countries were approximately 3.1 billion EUR and European Investment Bank lending was 500 million EUR for allocation to TACIS countries.

Programme MEDA was established in 1995 under the Barcelona process and it included 10 countries (Turkey was excluded from MEDA since 2002 because a special programme for Turkey was set up). MEDA had three main goals:

- creation of a common space of peace and stability though political and security dialogue,
- creation of a common space of prosperity through economic and financial partnership and creation of a free trade zone,
- uniting people through social and cultural cooperation.

The financial allocation for MEDA countries for 1995-1999 amounted to 3.435 billion EUR. At the same time, the EIB in the period 1995-2000 provided loans and other form of aid to a total of 4.029 billion EUR. For the budgetary period 2000-2006, the funds available were approximately 5.35 billion EUR for MEDA countries and approximately 6.4 billion EUR in EIB lending instruments. The increase of funds for MEDA countries is evident. The system of implementation was similar to the TACIS programme.

All TACIS and MEDA countries also had access to other EU “global” and “sector” programmes like EIDHR, CARDS, ECHO, TEMPUS, ECFIN, FEOGA, AENEAS and others.

TACIS projects were in the first phases (before 1999) managed by the SCR (EC service for external relations). After the reform DG Relex and EU Aid also participated in the management of the programme. These institutions managed all aspects of project implementation: technical, operational, financial, accounting, contracting, evaluation and audits. Since 2000, the programming was

**Table 2: Contracted resources MEDA in mil. EUR\***

|                      | <b>MEDA I.<br/>(1995-1999)</b> | <b>MEDA II.<br/>(2000-2006)</b> |
|----------------------|--------------------------------|---------------------------------|
| Algeria              | 164                            | 307                             |
| Egypt                | 685                            | 596                             |
| Gaza/Western bank**  | 106                            | 397                             |
| Jordan               | 257                            | 314                             |
| Lebanon              | 182                            | 127                             |
| Morocco              | 644                            | 907                             |
| Syria                | 107                            | 207                             |
| Tunisia              | 431                            | 472                             |
| Regional cooperation | 201                            | 688                             |
| <b>TOTAL</b>         | <b>2,777</b>                   | <b>4,015</b>                    |

Source: EC (2008). \* without Turkey; \*\* Allocation MEDA II. For 2000-2004, sum for 2005-2006 is not available.

partly decentralised by including EC Delegations in partner countries in the programme and project implementation. However, experience and evaluation by various experts and even by the EC<sup>36</sup> showed a lot of shortcomings of the implementation system.

First of all, the process of identification and preparation of projects was very complicated and it took a long time (in many projects it took more than a year to begin project implementation). Serious problems were caused by slow tendering and contracting procedures. Therefore the EC decided to simplify these procedures and in November 1999 published a manual for tenders and contracts. This manual reduced the number of procedures from 40 to 8 and simplified conditions for public procurement of goods and services. On the other hand, the manual brought new requirements in the area of transparency, especially in the area of setting up terms for contracts and tenders, in the area of selection of best offer and in the area of broad information requirements about tenders and contracting procedures. The EC also started to elaborate a joint

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36 EC (2004).

database of projects for all EU programmes targeted for cooperation with third countries.

The TACIS and MEDA reform in 1999-2000 brought a more targeted and more tailor-made system of implementation for recipient countries. New legislation<sup>37</sup> changed the system of programming and set up basic areas of cooperation. This reform wasn't deep enough and in 2004-2005 the EC started a new reform leading to the creation of ENP and to the creation of new tools. In these years TACIS and MEDA were also enlarged by new delivery mechanisms: TAIEX and Twinning.

In general, the following can be concluded from the experience with TACIS and MEDA programmes:

First, both programmes brought fragmented results and lagged behind expectations and potential in helping partner countries. The main reasons include late transformation and reform of the programmes and their customising to the needs of partner countries; low impact with respect to reforms in many partner countries and low acceptance of project results by the political leaders of partner countries. Even though the best projects made a significant contribution to effective policy reform in some areas, stakeholders have on occasion criticised its perceived slowness and rigidity, fragmentation, complexity, the sometimes inadequate quality of EU experts and over-ambitious project aims. The performance and impact of the multi-country programmes have been variable, because of difficulty in achieving country ownership, coupled with greater complexity in programme design. Despite efforts to improve coordination of EC aid instruments, EC aid to the region remains fragmented, which reduces impact and visibility – this also has implications for the area of coordination of aid with other donors that was also very limited and underdeveloped.

Second, efficiency of programs and projects is in many cases questionable. This is related to shortcomings in the management and implementation of the programmes and projects because of bureaucracy, a very demanding

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37 Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999.

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complexity of preparation and implementation procedures, and also low transparency because of insufficiently developed control, monitoring and evaluation mechanisms and other factors.

Third, even though the new CSP approach adopted since 2000 has led to a marked improvement in programming, the participation of partner countries as well as other actors (like civil society) in the process was very limited, if any. Fourth, ownership and related responsibility of partner countries was also very limited and therefore resulted in low programme and project impacts on policy/making in partner countries.

Finally, TACIS and MEDA had low visibility (especially among the public and outside the capitals of partner countries). Participation of other than state actors in programmes and projects was also very limited, esp. in the area of programme preparation (programming), monitoring and evaluation. Generally, evaluation of the TACIS and MEDA programme and projects was very limited even by the EC and its institutions.

### **2.3.2. New tools**

For the new programming period (2007-2013) the EC prepared a reform of the financial tools and instruments for its cooperation with other countries. It included a new classification of countries and their assignment to various programmes.

The European Neighbourhood and Partnership Instrument (ENPI) is the financial instrument under which EC assistance to Eastern Europe, Southern Caucasus and Southern Mediterranean countries has been provided since January 1, 2007. It replaces the MEDA and TACIS instruments. A total of over EUR 11.2 billion under the EU 2007-13 financial framework will be provided to 17 partner countries that are EU neighbours. This budget allocation represents in total a 32% increase of EU aid to these countries when compared with TACIS and MEDA programmes in 2000-2006.

Other financial tools of EU external aid are: the European development fund (EDF) that finances development

cooperation with 78 countries of Africa, the Caribbean and the Pacific. The EDF can not support ENP countries.

The Development cooperation instrument (DCI) helps South Africa and 47 other countries in Latin America, Asia and Central Asia and countries of the Middle East (not ENP countries). It also helps to reform the agricultural sector in 18 ACP countries. However, DCI also includes five thematic programmes: investment in human capital, environment and sustainable development of natural resources including energy, supporting non-state actors and local governments, food security, and migration and asylum. These thematic programmes may include all developing countries worldwide that are also ENP and EDF countries.

The European instrument for democracy and human rights (EIDHR) is available to all countries of the world. Total allocation for the programme is 1.1 bil. EUR for 2007-2013. ENP countries have the highest share of the total allocation for that period.

The Instrument for stability (IfS) was set up to deal with existing and emerging crises (esp. in the area of security). Total allocation is 2.062 bil. EUR for 2007-2013. The indicative allocation for ENP countries is 11.2% from the whole budget for IfS.

Nuclear safety cooperation instrument (NSCI) has an allocation of 524 million EUR for 2007-2013 and its main aim is to help NIS countries especially with their nuclear programmes and their security. The allocation for individual countries is not defined and drawing the funds depends on the projects submitted and approved. When analysing the similar previous instrument under TACIS, during 1991-2006 most of the resources were spent in Ukraine (47%), Russia (44%) and the rest in other countries (esp. Kazakhstan and Armenia).

During the preparation of ENP, the EC also decided to reform financial instruments and unite them under the ENPI. The EC also applied a "structural funds" system (programming, management, implementation, evaluation and so forth) to the ENP financial instrument. EC assistance under ENPI is/will be implemented through different types of programmes:

The allocation for individual countries is not defined and drawing the funds depends on the projects submitted and approved.

When analysing the similar previous instrument under TACIS, during 1991-2006 most of the resources were spent in Ukraine (47%), Russia (44%) and the rest in other countries (esp. Kazakhstan and Armenia).

- National programmes for each partner country
- Three Regional programmes: one for the East, one for the South and a trans-regional one for both East and South.
- Fifteen Cross-border Cooperation programmes.
- Five thematic programmes. They are common to neighbouring countries and development countries (ACP, ALA...)

The EC assistance priorities under ENPI are identified in:

- General Strategy Papers covering the period 2007-2013, e.g. Country Strategy Papers (CSPs) or Regional Strategy Papers (RSPs)
- More detailed Indicative Programmes which cover 2007-2009 and 2010-2013, e.g. National Indicative Programmes (NIP) and Regional Indicative Programmes (RIP)
- Detailed Annual Action Programmes (AAP) for each year of the programming period.

The central elements of the ENP are the bilateral ENP Action Plans with individual partner countries. Each Action plan constitutes a contract between the EU and an individual country. It includes commitments from both the EU and the partner country on six major issues:

- political dialogue and reform
- economic and social development reform
- regulatory and trade-related issues
- justice and home affairs
- the key sectors of transport, energy, information society, and the environment
- people-to-people contacts.

The ENPI also includes new forms of technical assistance. Legislative approximation, regulatory convergence and institution-building are being supported through mechanisms which proved successful in transition countries that are now EU Member States i.e. targeted expert assistance (Technical Assistance and Information Exchange - TAIEX), long-term twinning arrangements with EU member states' administrations - national, regional or local - and another very positive change was carried out by

allowing participation of ENP partner countries in relevant EU programmes and agencies.

During the German presidency, the new instrument - the Governance Facility was established, endowed indicatively with 50 million EUR annually, which provides additional support to the ENP partner countries that have made most progress in implementing the governance priorities agreed in their Action Plans.

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Reflecting the needs of ENP countries, the Neighbourhood Investment Facility was established at the end of 2007 and it started to support lending to ENP partners in 2008. The Commission allocated 700 million EUR for 2007-2013 and also asked member states to gradually match the community contribution, so as to maximise the leverage of loans. The NIF will fund projects of common interest focussing primarily on energy, environment and transport infrastructure and networks.

EU assistance priorities are identified in general Country Strategy Papers (CSPs) covering 7-year periods, National Indicative Programmes (NIPs) covering 3 years and detailed annual programmes. The priorities identified in the Action Plans are agreed with the authorities of the ENP partner country.

### **2.3.3. Pros & cons of the reform of financial tools and instruments**

At this stage, when ENPI is just in its initial phase, it is quite difficult to evaluate its impacts and efficiency. However, based on previous findings from the TACIS and MEDA reforms as well as on the basis of the pre-accession instruments (PHARE, ISPA, SAPARD) and EU structural funds experience, we can expect the following advantages and drawbacks of the new instrument - ENPI:

1. The ENPI will provide more options for ENP countries than TACIS and MEDA. Its tools should be moving from technical assistance to fully-fledged cooperation (Cross-Border Cooperation, Twinning, TAIEX). Moreover, the ENPI will be supported by other actions: the Governance

Facility, the Neighbourhood Investment Facility and also access of ENP partner countries to EU programmes and institutions. Finally, more allocated resources (11.2 bil. EUR, increased by 32%) + the increased EIB lending mandate of 12.4 bil. EUR should lead at least to an increase in the number of actions, projects, and therefore to more intensive cooperation with ENP countries.

2. The ENPI will be a more tailor-made, policy-driven instrument (supporting priorities agreed in the ENP Action Plans) not only because of better and more sophisticated programming, but also thanks to increased ownership and participation of ENP countries in the management and implementation processes. However, the EC dominated in the negotiations about the final documents, and the programming has lacked greater participation of actors like civil society, local governments and so forth. Programming documents still include a lot of priorities and therefore in the absence of synergy of projects, results could be again fragmented. However, generally compared with TACIS and MEDA, we should expect better results.
3. The Structural Funds approach (also not perfect, as we know from new member states' experience) that is based on multi-annual programming, partnership and co-financing brings hope of better use and targeting of funds, however risks are rising in connection with an unprepared institutional framework in ENP countries, shortages of qualified personnel, not to speak of problems in the area of corruption and so forth. This could lead to slow project preparation and implementation with impacts on quality of projects as well as with risks of an ineffective use of funds.
4. The establishment of the ENPI brought some improvements and enhanced options for implementation (e.g. accessibility and suitability of tools for more recipients, simplified procedures esp. in cross-border cooperation) when comparing to TACIS and MEDA. It also brought concreteness. The Action Plans are more detailed and experience with their implementation shows that this makes it much easier to discuss, agree and implement

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specific, time-bound and measurable objectives. This gives hope that ENPI will better cope with the specific ambitions and capacities of ENP countries, reflecting the differentiated relations of the EU with its partners, whilst also promoting achievable steps towards regulatory convergence with EU legislation and standards.

Moreover, the ENPI seems to have the following drawbacks:

1. Questionable distribution of ENP resources that favours Mediterranean partners (2-times higher allocations for MED countries) which is probably connected to better EU lobbying of old members states and a low preparedness for drawing on the funds among East European countries (EEC). However, the number of prepared projects in the last years under the TAIEX and Twinning by EEC has reached the level of projects prepared by MED countries and therefore more funds for EEC is necessary.
2. The ENPI still relies on complicated programming and there are legitimate concerns about low participation of other actors in the process (the preparation of the ENP strategy papers and the negotiations of the action plans were mostly conducted in an intergovernmental setting, without civil society participation) that could lead to time stress, low accountability and visibility of ENP in partner countries and could also lead to limited results and impacts of the actions.
3. The Structural Funds approach brings a very demanding and bureaucratic system of delivery of the funds (e.g. very high cost of administration) and ENP countries at the beginning of implementation could face huge problems with it.
4. The ENPI still lacks sophisticated mechanisms that would deal with low visibility, low level of information for non-state actors and people living in ENP countries, low transparency (no specific anti-corruption mechanism), low accountability and related issues.
5. The ENPI also lacks sufficient verification and monitoring of funds, including shortages in evaluation.

6. The very broadly defined priorities within ENPI programmes could lead to low concentration on priorities and absence of synergy of projects. The ENP action plans lack concrete timetables, specific objectives and identification of financial and human resources needed to implement the agreed-upon measures. They are often formulated in rather broad terms, which could lead to fragmented results and impacts.

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#### **2.3.4. Future financial tools**

In future, the EU must continue its approach of 1) intensifying the policy and its delivery so that it brings clearer benefits; 2) pursuing a gradualist, performance-based and differentiated course and 3) showing willingness to deepen relations with select ENP partners where this is warranted and sought by the countries concerned. Financial tools should contribute to these aims. In dealing with this, the ENP financial instrument needs:

1. More visibility, transparency and accountability (independent verification and monitoring of funds, measurable evaluation criteria and establishment of more concrete measurable benchmarks), more information (esp. to regions and people), more involvement of other actors (NGOs, local governments ...) ... citizen and civil society support for reaching the aims of ENP. It must engage parliaments, judiciary, and civil society in dialogue and monitoring of success of ENP in partner countries.
2. A clear link of conditionality of spent funds with the aims set in programming documents and reforms, esp. more responsibility of ENP countries for the results and simpler and more easily accessible compliance mechanisms should be in place to assess ENP programmes 'compliance with EU and national priorities and legislation.
3. Better and more concentrated allocations (at this stage) including better transfer of know-how and successful project management within the country and between the ENP countries.

4. To build up institutional capacities and to provide project support in ENP countries to do things effectively.
5. Simpler, more varied and flexible financial (delivery) tools (e.g. Trust Fund for soft projects, policy consultations, and small projects; further reform of implementation procedures; support for project preparation) to cope with problems that ENP countries are facing.
6. Higher aid coordination with other donors and international institutions to get more successful and more effective results and impacts of the action.

# 3. IMPROVING THE INSTITUTIONS

## 3.1. CLARIFYING STRATEGIC LOGIC

The European neighbourhood policy (ENP) is characterized by a loose institutional makeup. The problem with the ENP's institutions is both political and conceptual. Politically, the interests of member states are varied, and in fact many – especially older - member states are not interested in dealing with the problems of the new EU neighbourhood after recent rounds of eastern enlargements. Hence, the Council has at best been able to produce ad hoc responses in times of crises like in the aftermath of the Orange Revolution, when it offered Ukraine ten additional points to its Action Plan. However, the Council's and Presidencies' roles have been largely confined to forging a broad consensus characterized by unclear aims and often too many priorities stemming from the different geographical interests of different member states.

Indeed, in addressing the neighbourhood, initiatives have ranged from a focus on the eastern neighbours ("circle of friends", inclusive "Wider Europe" concept and the birth of the ENP) to potential alternatives to the failing Barcelona process. Politically then, the ENP has become a placebo for the EU's new ambition to be a foreign policy actor. Yet the reality is that the ENP has been no real exercise in foreign policy.

Conceptually then, the ENP has largely copied the framework of enlargement policy without providing the benefits of enlargement. There is virtually no explicit importance attached to the policy in EU documents (treaties do talk about the neighbourhood in a very general way, but there has been little change in the EU budget). Because of low member states' consensus the ENP has in practice turned into a largely bureaucratic exercise accompanied by structured dialogue with the neighbouring countries

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managed by the European Commission. The cynics might even say that the ENP has been largely about job-creation for officials in the European Commission who previously dealt with enlargement as well as about production of large piles of papers and evaluations without much real impact.<sup>38</sup> While such statements are overblown, there is some truth in them if one looks at the names of people who work on the ENP in the Commission and at the number of documents that the ENP has produced since its inception in 2004 in relation to the actual low impact the EU has had on developments in the ENP countries.

As research on the EU impact on outsiders<sup>39</sup> shows, the EU has an impact just prior to opening accession talks. However, the ENP offers no accession talks, its impact may at best be just marginal on those who wish to reform and to keep an EU perspective, and who are physically close to the EU.

Both the Commission and the Council have to overcome the model of the ENP inspired by a watered-down version of enlargement policy. Institutionally, the potential access of ENP countries to EU agencies is not sufficient. ENP countries should have access to institutions provided they comply with the existing *acquis*.

### 3.2. OVERCOMING SEGMENTATION

The ENP suffers from the internal divisions of EU institutions. Whenever the ENP consists of projecting community policies, the Commission carries out the job by virtue of their being community policies. Where the ENP touches on fields related to security interventions, there the institutional balance tilts toward the Council. This creates an additional problem of coordinating the different stakeholders for whom there is no central command, given the ever-increasing number of regional initiatives within the EU. While the ENP needs more resources, these have to be coordinated.

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38 See for instance Anand Menon, *Europe. The State of the Union*. London: Grove Atlantic, 2008.

39 See conditionality literature, especially works by Frank Schimmelfennig.

In order to facilitate the improvement of the ENP, the EU institutions have to be both more active and more creative. There has to be more intensive interaction between the Council and the Commission when developing the ENP on a day-to-day basis. The Council should strive to provide the Commission with more specific mandates than it has done thus far and do so on the basis of more regular consultations with representatives of the Commission and ENP countries. As in most policy areas the fact remains that the Commission performs only as far as the Council allows it to perform.

One important lesson for the effectiveness of the Council comes from potentially more successful attempts at neighbourhood initiatives that combine newer and older member states. Especially, the partnership between Sweden and Poland could serve as a springboard for future, more refined mandates in the area of the ENP.

While the European Parliament continues to play a marginal role in external relations, its representatives should create pressure through more frequent hearings of the Commission and member states officials on the ENP.

Last but not least, the ENP shows the strong need for a coordinated leadership of the Commission and the Council in EU external policies. In short the success of the ENP depends in part on the success of the External Action Service.

### 3.3. FOSTERING PARTNERSHIP

The Commission should underline the principle of partnership with ENP countries and create mechanisms for the permanent presence and consultations of experts from ENP countries in Brussels. The example of some 300 Norwegian experts regularly consulting the Commission on a variety of issues stemming from Norway's relations with the EU could serve as a model for such institutionalized interactions in the future.

The ENP's institutions could also benefit from lessons learned from the Northern Dimension. First, the Northern Dimension is pretty unique thanks to an intensive

While the European Parliament continues to play a marginal role in external relations, its representatives should create pressure through more frequent hearings of the Commission and member states officials on the ENP.

involvement of broad segments of civil society that include the sub-national (regional and local) authorities, non-governmental organizations and other civil society organizations (including, notably, indigenous peoples' organizations), universities and research centres, business and trade union communities. The EU has to devise channels of participation of non-official actors (often more active in promoting the ENP than some of the official players) and perhaps include players from potential partner countries.<sup>40</sup> Second, the Northern Dimension distinguishes itself by its local and multifaceted political and financial ownership. The ENP does need stakeholders more than it needs official EU funds. After all, the budget allocated for ENP activities annually about equals the size of pre-accession aid to Poland. However, these funds have to be channelled in accordance with clear and limited set of priorities like in the case of the Northern Dimension and not always directed at official institutions in the ENP countries.

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40 Belarus could be encouraged to participate in expert level cooperation in the Northern Dimension framework.

# 4. DEVELOPING THE REGIONAL DIMENSION(S)

## 4.1. LESSONS LEARNED FROM EARLIER INITIATIVES

The Union's neighbourhood is not a homogeneous entity. While the vital interest of the EU<sup>41</sup> is that its neighbourhood as a whole becomes stable, prosperous and democratic, the tools the EU uses may and should vary with regions and countries. The East is the newest dimension of the EU's policy towards neighbours - the forerunners being the Euro-Mediterranean partnership / Barcelona process, the Northern Dimension and the Balkan Stability Pact. This paper will not discuss all the experience with previous neighbourhood initiatives, it will however briefly highlight some of the lessons relevant for the Union's new Eastern policy.

First, the most successful neighbourhood policy has been the enlargement policy - by offering "everything including institutions" to countries of Central and Eastern Europe, the EU played a role the catalyst of change and norm-setting agent. Though it is clear that the membership cannot be offered instantly to all countries currently in the ring of neighbours the prospect of it should not be explicitly excluded. Some authors<sup>42</sup> even suggest that the line between the enlargement and neighbourhood policy should become more blurred, since for countries that are at the moment far from getting a date for opening of negotiations (or even candidate status) the current framework

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41 *A Secure Europe in a Better World: European Security Strategy*, 2003.

42 See e.g. Valasek, Tomas, "Why Ukraine Matters to Europe", a forthcoming CER essay.

Whatever the relationship between enlargement and neighbourhood policy will be in the future, the major lesson from the past is that an efficient policy towards any neighbourhood should offer a concrete institutional attachment of the neighbouring country to the EU, provided it fulfils conditions in a certain field/sector.

lacks incentives. While this option deserves consideration, in practice such step might be opposed by countries with which the EU has already started accession negotiations (Croatia, Turkey) or that have been given a prospect of membership (the Western Balkans). Whatever the relationship between enlargement and neighbourhood policy will be in the future, the major lesson from the past is that an efficient policy towards any neighbourhood should offer a concrete institutional attachment of the neighbouring country to the EU, provided it fulfils conditions in a certain field/sector.<sup>43</sup> If the relationship is to be a loose platform or a “project based” initiative, and the neighbouring country is not to have the prospect of “being part of” the EU, then, as experience from the South shows, progress will be slower.

Second, one of the key lessons learned (but not remembered) from the Barcelona process has been the fact that at its establishment the Union did not come up with either regular institutionalized consultation on a working level or a mechanism of independent evaluation of results.<sup>44</sup> Having no regular contacts between those who were (and those who should have been) directly in charge of implementation of the Barcelona goals clearly contributed to the fact that the process has not delivered many of the envis-

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43 This means that the German presidency proposal of signing sector agreements with ENP countries and enabling them to enter community programs should be kept on the table. Moreover, as it is not (and cannot be) clear whether the enlargement process as such will continue after Croatia joins the EU (given the lack of political will in the EU), the EU policy-makers should consider more scenarios for the “enlargement-free” period and think of attaching willing neighbourhood countries by other means.

44 See e. g.: Sabiha Senyucel, Sanem Guner, Sigrid Faath, Hanspeter Mattes (2006) Factors and Perceptions influencing the implementation of the European Neighbourhood Policy in selected southern Mediterranean countries. Euromesco research paper No. 49, TESEV, GIGA, DOI, p. 1 - 30; the Final Declaration of the Luxembourg Euromed Civil Forum of April 2005 offers more details on this issue. [http://www.eu2005.lu/en/actualites/documents\\_travail/2005/04/08finaleuromed/euromed1.pdf](http://www.eu2005.lu/en/actualites/documents_travail/2005/04/08finaleuromed/euromed1.pdf)

aged goals, especially in the political pillar.<sup>45</sup> Moreover, the process has received only a limited “external content audit” and civil society played a very minor role in determining the agenda. Most of the time the civil society actors were not able to serve as “watchdogs” of their own governments’ steps towards the fulfilment of commitments made - be it in the EU or in the partner countries.

This brings us to another point, which is the fact that neighbourhood policy cannot be a process between governments and EU institutions, but should include other players from partner countries - think-tanks, grass-roots organizations, media and SMEs. Occasional conferences with participation of the aforementioned actors cannot be considered as their sufficient involvement in the process. These players have to be involved in all phases - setting priorities, evaluating outcomes, and carrying out “content audit” of government policy. In other words, the neighbourhood policy cannot rely solely on cooperation with ENP partner governments for at least three reasons: partner countries in the East do not necessarily have governments committed to EU-values/standards; governments that would be stable enough to implement the development agenda (a case in point is Ukraine, a country which has made the biggest progress in the neighbourhood goals, yet, the continuity is threatened by frequent changes in composition of power-holders); and finally - the EU-peization process, in order to be successful, has to become the property of significant majority of society, not only of a particular ruling elite.<sup>46</sup>

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45 Clearly, other factors have contributed to slow (if any) progress in the political pillar. To mention at least two important factors - low lasting political commitment on the side of most leaders of the partner countries; and second, the post-2001 “securitization” of approach to the region.

46 If there is no “nation-wide” consensus on the EU-peization project, if the process is not communicated to various segments of society, EU issues frequently serve as bullets in domestic political strife. The EU does not want to be a divisive player, nor associate itself or bet on any single political entity in partner countries - it rather wants to (or should want to) be an alternative for the majority of the society. (Radical anti-EU-peization forces will most probably always

The Union should avoid compartmentalization of its policy towards one region. Currently it has three major policies in the East – the accession negotiations with Turkey; the Common Spaces agenda with Russia and – the ENP (including its non—existent branch towards Belarus).

While on paper, or legally, these are three very different policies, on the ground they are very interrelated.

Third, and this is the lesson already learned from the first steps in the East, the Union should avoid compartmentalization of its policy towards one region. Currently it has three major policies in the East – the accession negotiations with Turkey; the Common Spaces agenda with Russia and – the ENP (including its non—existent branch towards Belarus). While on paper, or legally, these are three very different policies, on the ground they are very interrelated. The Union cannot achieve much progress in the neighbourhood if it ignores Russia or tries to isolate it – be it in Ukraine, Moldova or South Caucasus, Russia is too much a factor even in the domestic politics of all five countries.

Russia however is not the only major player present in the East. Turkey with its new ambitious foreign policy of “strategic depth” and “zero problems with neighbours” deserves greater attention from the architects of the EU’s Eastern policy. First, given the current commitments, Turkey should one day join the Union and bring its own skills and contacts to make the European project stronger and more competitive in the international arena. Second, the trend of division of labour<sup>47</sup> has become an established practice in the EU, with some countries or groupings of countries dealing more with certain issues than the others (e.g. Mediterranean dimension, Iranian nuclear programme, relations with Latin America, etc). It makes sense that Turkey is invited to take part in drafting EU’s Eastern policy even before becoming a member – Turkey has influence in the East and is well-positioned (geographically and with economic networks) to play a role in dealing with the Black Sea and Caucasus. Therefore, in its brief comments on recently proposed initiatives towards the Union’s Eastern neighbourhood, this paper stresses the importance of keeping in mind the complexity of the situation on the

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play a certain role in domestic politics, so it would not be precise to speak about the “society as a whole”.)

47 For suggestions on the options EU has in cooperating with its neighbours on fulfilment of common goals see Charles Grant. *Europe’s Blurred Boundaries – Rethinking Enlargement and Neighbourhood Policy*. (Centre for European Reform, London 2006).

ground, and brings to attention of EU policy-makers that processes that could be compatible and bring synergies should be handled in a more coordinated approach.

#### 4.2. THE PLAYERS IN THE EAST: FOCUS ON TURKEY

Before getting down to specific initiatives proposed for the East, let us briefly summarize the main factors determining Turkey's position in the neighbourhood. When the preparations of the current ENP were underway, Turkey itself was asked if it would like to take part. The offer was refused, as Turkey was a country expecting opening of accession negotiations with the EU at that time.<sup>48</sup> Naturally however the country is an important one for the success of the Union's policy in the East, since the EU's neighbourhood is Turkey's neighbourhood too. This was well put by the former Turkish foreign minister Yasar Yakis: "The EU of course can choose to pursue its neighbourhood policies without Turkey. It might even be successful - no country is irreplaceable, even Turkey. But perhaps it would cost less energy and resources, and the results would come earlier, if it took advantage of certain resources Turkey already has established."<sup>49</sup>

Turkey's foreign policy has become built on the principle of "zero problems with neighbours", especially as a result of the combination of the changed international environment after the end of the Cold war, Turkey's renewed EU membership prospects and the coming to power of the AKP. Turkey has started to search for ways to project its soft power in more cases - be it in Israeli-Palestinian issues, or more importantly in the negotiations between Syria and Israel. It should be noted that at the beginning of Turkey's Israel-Syria mediation many were sceptical about the results it might bring, and in the end the process

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48 Michael Emerson, Nathalie Tocci. Turkey as a Bridgehead and Spearhead: Integrating EU and Turkish foreign policy. (Centre for European Policy Studies: Brussels 2004).

49 SFPA Interview with H E Yasar Yakis, Minister of Foreign Affairs of the Republic of Turkey, Chairman of EU Harmonization Committee in TBBM, October 2008.

has become so successful that France was (unsuccessfully) trying to take over the role of a mediator earlier this year.

In the Black Sea especially Turkey has striven to play a role of balancing actor – having initiated the founding of the Organization for Black Sea Economic Cooperation (BSEC) based in Istanbul with 12 members currently<sup>50</sup> and later the formation of BLACKSEAFOR, which includes only the littoral states. Turkey has been particularly sensitive to intervention in the region by players that are geographically not part of it and it has opposed NATO activities in the region, despite being a member of the Alliance for over half a century<sup>51</sup>. Moreover, especially in the Black Sea, Turkey's ambition for regional leadership is an obvious fact.

When it comes to the issues of priority concern to the EU, Turkey has proved to be “part of the problem” and “part of the solution” (energy issues), and yet it seems that only the “problem” part has been highlighted by EU policy-makers so far, most obvious being the relations with Armenia.

In the “problem” part things are changing fast and the recent visit of Turkish president Gul to a football match in Armenia was not a first step but rather a first “visible” result of a long incremental process towards normalization of relations. It has become more than clear in Ankara that the diplomatic frost is not helping the solution of the Nagorno-Karabakh conflict (the reason the border was closed in 1993). While there are other issues in bilateral relations (e. g. the demand – fuelled mainly by the Armenian diaspora – for the events of 1915-1917 to be recognized as genocide), there is currently a direct flight connection between Turkey and Armenia and considerable bilateral trade exists as well, though it is not obvious from official

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50 BSEC's members: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Serbia, Turkey, Ukraine; the organization has 17 observers, including the Commission of European Communities.

51 For more see e.g. Zeyno Baran, *Turkey and the Wider Black Sea Region*. In: Daniel Hamilton and Gerhard Mangott: *The Wider Black Sea Region in the 21<sup>st</sup> Century*. Washington D.C.: Center for Transatlantic Relations, 2008.

statistics, as it uses Georgia as a proxy. In the end, Turkey, Armenia and the other two Southern Caucasus states have a common long-term objective – the EU. Whether they declare it directly or indirectly (there are perhaps more EU flags in Georgian state buildings than in Turkish, and in Armenia the goal is not pronounced aloud).

The bigger picture is however too often omitted in the EU's strategic thinking and that is the role Turkey can play in the success of the EU's goals regarding the Eastern neighbourhood as a whole. While the fact of Turkey's being an important energy hub is noted (also in the EU's repeated invitation to Turkey to join the Energy community treaty), the importance of Turkey's progress on the road towards EU accession for the European perspective on the Southern Caucasus is less spoken about. The neighbourhood process (until now the ENP) and Turkey's accession process have been handled more or less separately until now, but the geographical and political reality makes these two processes more interconnected. The closer that Turkey becomes to the Union, the more efficient the Union can be in the Southern Caucasus. Of course the South Caucasus countries will not give up their EU aspirations once they see TR-EU process going awry, it might however significantly diminish the EU's credibility and influence. If the EU is not able to deliver in its policies towards a candidate country, what guarantees is it able to give to pro-European forces in countries that are "merely" neighbours?

Moreover, as already mentioned, the trend of specialization inside the EU is already established and it is important to consider whether candidate countries too should make a concrete contribution to the Union even before accession. Moreover, the concept of "variable geometry" was already included in the official EU glossary as "differentiated integration which acknowledges that there are irreconcilable differences within the integration structure and therefore allows for a permanent separation between a group of Member States and a number of less developed integration units"<sup>52</sup>. A question thus needs to be asked

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52 Europa Glossary; [http://europa.eu/scadplus/glossary/variable\\_geometry\\_europe\\_en.htm](http://europa.eu/scadplus/glossary/variable_geometry_europe_en.htm).

whether this concept could be extended beyond the current members.

Much of course depends on Turkey itself and not only on the handling of the accession process. The very idea of Turkish and EU coordination in their common neighbourhood has more than one opponent in Turkey also. When asked about their idea of EU - Turkish neighbourhood cooperation, most Turkish policy-makers will start their response by saying "First it needs to be stated that Turkey is not a neighbour but a candidate country" and continue by reminding one that the perception of EU double standards towards Turkey is so deeply entrenched that Turkish-EU neighbourhood cooperation would be considered by many in Turkey as a first step in declining Turkey's accession bid and making Turkey merely a "good friend and a neighbour." While such concerns surely are legitimate, and Turkey has a history of unfair treatment by EU policies and policy-makers, it remains a fact that the Eastern neighbourhood is a common one and helping it to form *together with the EU* as opposed to *in parallel with the EU* or *on its own* would be more productive for both players.

By engaging Turkey more, the EU can become a stronger actor in *realpolitik* terms, by thinking more also about the second part of the equation (it is not only EU that needs resources but also Russia that needs money), the EU can bring different accents to the dialogue with Russia.

To sum up, more coordination is recommended in the EU's and Turkey's approach to the Eastern neighbourhood. Especially so, if the EU and Russia now seem to be clashing on two different levels - the Union being a normative actor, at the same time largely dependent on Russia for energy resources; Russia playing more *realpolitik*, at the same time being in need of EU-pean cash for oil and gas. By engaging Turkey more, the EU can become a stronger actor in *realpolitik* terms, by thinking more also about the second part of the equation (it is not only EU that needs resources but also Russia that needs money), the EU can bring different accents to the dialogue with Russia.

### 4.3. INITIATIVES ON THE TABLE

At the moment there are four initiatives targeting the region proposed by relevant players. The Black Sea Synergy (BSS) initiated by the European Commission, and the Union for the Black Sea (UBS) as a response to/elaboration of BSS

are the EU's effort to establish a regional dimension of its policy towards the East. The Platform for Cooperation and Stability in the Southern Caucasus is a Turkish effort to reinvigorate proposals first discussed eight years ago. The Eastern Partnership is a Polish-Swedish proposal that was already endorsed by the Czech presidency. While the BSS and the Eastern partnership have been outlined in a more detailed form, in the UBS and the Turkish proposals only the key points were floated. Moreover, while the BSS and the Eastern partnership do not put emphasis on cooperation with Turkey and Russia, the other two proposals do. This part of the paper briefly discusses some of the key points raised by the initiatives and outlines recommendations for areas where further elaboration is necessary.

#### **4.3.1. Black Sea Synergy and Union for the Black Sea**

The Black Sea Synergy (BSS) initiative was announced by the European Commission shortly after the 2007 EU Enlargement, in which Romania and Bulgaria, two Black Sea littoral states, joined the EU. The BSS is the EU's first articulated attempt to be active in the Black Sea - on the one hand it is natural, for the EU now directly borders the Black Sea, on the other hand, it would be politically naïve to have the ambition of becoming a strong actor in the region in a fortnight. It should be noted that during its first year the BSS drew neither Turkish nor Russian sympathies.

Before launching the BSS, the Union did not hold any formal consultations with the players in the region. Moreover, in June 2008, the Commission published its own evaluation of the initiative without revealing much information on how the local players had been involved in the process of formulation of goals and evaluating outcomes. It is clear that the BSEC organization is mainly an economic forum and due to the variety of interests of its members it cannot be used to achieve goals of political reform. Moreover, given the fact that Russia's and the EU's goals and tools do not meet in many respects, the European Union should of course have its own policy. Yet, the BSEC is one of the oldest realities on the ground in

It is clear that the BSEC organization is mainly an economic forum and due to the variety of interests of its members it cannot be used to achieve goals of political reform.

Yet, the BSEC is one of the oldest realities on the ground in the region and to use it as a tool for achieving some of the EU's priorities might be the faster and less expensive way of doing things.

the region and to use it as a tool for achieving some of the EU's priorities might be the faster and less expensive way of doing things. Moreover, the environmental work done under the umbrella of BSEC has brought significant results – which might perhaps be the major area where BSEC has delivered more than expected.<sup>53</sup>

The BSS however was not well received by many players in the EU and a new initiative, the Union for the Black Sea (UBS) was proposed in May 2008 by members of European Parliament Hannes Swoboda and Jan Marinus Wiersma. This received a more positive reaction in Turkey also. The initiative endorsed in the Elmar Brok report (on the Commission's Enlargement Strategy Paper) shortly after its announcement basically supports the EU's expanded activity in the Black Sea as envisaged in the Black Sea Synergy. UBS however advises extending the EU's activity beyond the BSS, stressing that neither Turkey nor Russia can be left out of EU's policy towards the Eastern neighbourhood and that the BSEC organization should be given a more important role in the process. European socialists endorsed the idea at a recent conference in Sofia and early in 2009 another conference is to be held in Bucharest to elaborate more on the idea.<sup>54</sup>

While a more detailed Union for the Black Sea proposal has yet to be written and debated, the idea is based on more realistic grounds than the original proposal of the European Commission.

#### **4.3.2. The Platform for Cooperation and Stability in the Southern Caucasus**

The most recent initiative has been the announcement of the Caucasus Platform by Prime Minister Erdogan shortly after the Georgian-Russian conflict in August 2008 (initially announced as a pact but for symbolic reasons changed to platform). The idea of a Caucasus platform is not a new one – it was first discussed on the political level

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53 Charles King in Hamilton and Mangott (2008), p. 14 – 15.

54 “Strong support for the Black Sea Union”, 18. 10. 2008 <http://www.socialistgroup.eu/gpes/newsdetail.do?lg=en&id=101298&site=main>.

at the OSCE Istanbul meeting in 1999.<sup>55</sup> The idea was further elaborated by an expert task force under the leadership of CEPS, which published an extensive proposal for a Caucasus platform in May 2002.<sup>56</sup> The initiative, aimed at bringing together the EU, Russia and the US in solving the region's problems, did not, however, receive political support from any of these players. The EU even omitted the Southern Caucasus in its Wider Europe communication in 2003.<sup>57</sup> Georgia, Armenia and Azerbaijan are each mentioned in the whole document only once – in the section “List of abbreviations”, where they are listed together with Belarus, Turkmenistan, Moldova, Kazakhstan, Kyrgyzstan, Tajikistan, Ukraine and Uzbekistan under the abbreviation NIS - “Newly Independent States”.

The current (2008) announcement of a Caucasus platform has met with a mixed reception – abroad and in Turkey itself<sup>58</sup>. The early reactions included sceptical statements such as “This initiative is nothing more than a result of the fact that Turkey panicked regarding its supply of energy in the aftermath of the Georgia crisis.”, or “The initiative is a sign of euphoria or over-enthusiasm boosted by the recent success of Israeli-Syrian negotiations. Turks like to mediate”. The optimists were trying to draw attention to the fact that the initiative should be given the benefit of the doubt – first, Turkish presence and interests in the region are a geopolitical reality. Second, there is a domestic demand for Turkey's active role – there are perhaps more Georgians living in Turkey than in Georgia proper. Third, even during the conflict Turkey has preserved good

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55 By presidents of Turkey, Azerbaijan, Armenia and Georgia, all of whom declared the conviction that a regional cooperation was a prerequisite to the solution of major problems in the region.

56 Sergiu Celac, Michael Emerson, Nathalie Tocci: A Stability Pact for the Caucasus. A Consultative Document of the CEPS Task Force on the Caucasus, CEPS, Brussels: 2002.

57 Wider Europe – Neighbourhood: A New Framework for Relations with Our Eastern and Southern Neighbours, Brussels, March 11, 2003, [http://ec.europa.eu/world/enp/pdf/com03\\_104\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com03_104_en.pdf)

58 SFPA interviews with senior Turkish policy-makers, Istanbul and Ankara, October 2008.

relations with both Georgia and Russia. Fourth, the already mentioned thawing of relations with Armenia might be propitious for the process.

Looking at international reactions, the initial US reaction, as expressed by Matthew Bryza in August 2008 was one of surprise: "I hadn't been briefed that that was going to happen. We have a partnership with Turkey on the Caucasus, and I presume that we'll be able to work together very closely now with our allies in Turkey since we do have clearly shared interests, not to mention values, throughout the Caucasus with our Turkish ally."<sup>59</sup> In the diplomatic corridors one could hear more open expressions of disapproval that the US was not part of the game.

When it came to the EU, the first reactions were more reluctant, but when the Union was assured that the initiative did not have the ambition to replace already existing processes, that it did not want to establish a new institutional structure and that its main ambition was to promote stability and cooperation in the region, the EU had more positive comments. It is important to note that specifically two issues are of interest to the EU when it comes to Turkey's role in the Caucasus - normalization of relations with Armenia and energy security (Nabucco project).<sup>60</sup>

To sum up, Turkey should be given the benefit of the doubt in the South Caucasus. Given however the extensive diplomatic but limited financial resources of the country, it might be beneficial for the Union, as a bigger player, to work closely with Turkey and endorse and fund steps that would be considered of mutual interest. While in the

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59 Matt Bryza, State Department Foreign Press Center Briefing, The Foreign Press Center, Washington, D.C., August 19, 2008, [http://turkey.usembassy.gov/statement\\_081908.html](http://turkey.usembassy.gov/statement_081908.html)

60 A case in point is Olli Rehn's speech at this year's Bosphorus conference, where he highlights Turkey's importance for stability in the Southern Caucasus, praises Turkey's initiatives but does not specifically name the Caucasus platform - he lists Gul's visit to Armenia and reiterates the importance of energy security. See: Speech by EU Commissioner for Enlargement Olli Rehn: Turkey and EU: A Win-Win Game, Istanbul, October 10, 2008 <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/520&format=HTML&aged=0&language=EN&guiLanguage=en>

short-term perhaps not much can be expected from the Caucasus platform, the EU should think also in the medium and long term.

#### **4.3.3. The Eastern Partnership**

The Polish-Swedish proposal, supported by the incoming Czech presidency of the EU, has so far received the biggest political support from EU leaders. From a realistic perspective, effort should be invested in discussing this proposal and influencing it in such a way that it takes into account all the realities in the East. The “elaborated version”<sup>61</sup> of October 3, 2008 stresses that a “European offer” to Eastern Europe should be strengthened - on the one hand through a deepened bilateral cooperation with the Eastern partners (Moldova, Ukraine, Belarus, Georgia, Armenia, Azerbaijan), on the other through a multilateral/regional level of cooperation. It is important to note that the drafters of the proposal put emphasis on the project orientation of the Eastern partnership and on the fact that the partnership will have a neutral impact on the EU budget. There is no doubt that the EU must increase contacts with the Eastern neighbours - the question is how. We argue that this offer for Eastern neighbourhood is not sufficient and we recommend elaboration of the following points:

- a) As mentioned in earlier parts of this paper, an initiative that does not envisage an institutional affiliation with the EU is deprived of a strong incentive. The Eastern Partnership proposal stresses the need for enhanced EU support for sector reforms in the partner countries and suggests the establishment of more concrete measurable benchmarks. It should however focus more on finding a more accurate and objective method for “grading” of progress. Moreover, it lacks a follow-up to the German presidency’s proposal that envisaged sector agreements with the partner countries that would enable them to take part in community programmes.

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61 Polish - Swedish Paper (with the support of the incoming Czech Presidency. Elaboration of the Eastern Partnership. October 3, 2008.

- b) The suggestion to deepen cooperation on the broader migration agenda is a relevant one but the emphasis is placed on assistance with border issues, not on visa facilitation. Although visa facilitation is mentioned, together with a “long-term” prospect of a visa-free regime, the link with an increase in people to people contacts is not obvious here. The people in the suggested partner countries need to get more opportunities to get acquainted with the realities of the EU. While educational exchanges and common projects are necessary tools to fulfil this objective, they reach only a limited segment of the population. Even if the resources allocated for this priority were doubled – which is not probable, given the Eastern partnership’s ambition of “neutral effect on budget” –, the impact would be limited to a few per cent of the population. Thus, the Eastern partnership should include in its “to do list” lobbying on domestic – EU – level for visa liberalization.<sup>62</sup>
- c) The project orientation of the initiative has its pros and cons. While it might look very efficient to fund and discuss concrete projects, it is important not to lose the bigger picture: the projects should facilitate implementation of the EU’s medium-term and long-term vision for the neighbourhood. The projects themselves cannot become a substitute for the vision. While increasing the number of projects definitely will not be harmful and can in fact bring some results, since engaging Eastern partners to work in a common framework with EU partners will lead to partial progress in concrete areas, if there is to be an absence of a “bigger” goal or incentive, the initiative is likely to “run out of steam”.
- d) The pro-European actors in the partner countries need to know that the EU sees them as part of the “EU-pean project”. If the argument of the creators of the Eastern partnership was “better keep a low profile, because

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62 There are already a number of studies by EU think-tanks showing that visas are not a tool to prevent criminals getting into the EU and that a visa-free regime or at least a more liberal regime would not result in a mass influx of Ukrainians, Moldovans, etc into the EU.

a grand initiative could be refused by those who are ‘tired of enlargement’”, then the Eastern partnership avoids one of the core regional dimensions of the EU’s neighbourhood policy – the inward-looking dimension. If any proposal towards the neighbourhood is to bear some fruit, then it has to elaborate more on internal EU policies and discourses as well. The EU leaders need to avoid talk of “absorption capacity” and “enlargement fatigue” and it is recommended that the relevant players in the EU member states engage in deconstructing these terms.

- e) More EU institutions should be involved in the process of implementation of both the bilateral and regional components of the policy. Regular hearings in the European parliament would be an option – the policy should also be monitored throughout the year, not only once a year. The possibility of an EU-Neighbourhood-East Parliamentary Assembly has been proposed by the EPP-ED European Parliament MP’s<sup>63</sup>, this option is worthy of consideration. In its report of October 26, 2007 the EP Foreign Affairs Committee even suggested formation of such an Assembly and the European Parliament approved it in its 2007 report on strengthening the ENP.<sup>64</sup> Before such an institution is brought into existence and assigned concrete tasks in dialogue with Eastern partners, the successes and failures of other similar parliamentary assemblies should be studied.
- e) While high-level political commitment to the initiative is a must, this should be used as an asset for two key purposes: securing a sufficient budget for the initiative

If any proposal towards the neighbourhood is to bear some fruit, then it has to elaborate more on internal EU policies and discourses as well. The EU leaders need to avoid talk of “absorption capacity” and “enlargement fatigue” and it is recommended that the relevant players in the EU member states engage in deconstructing these terms.

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63 EPP-ED proposes the creation of a EURONEST Parliamentary Assembly; <http://www.europe.bg/en/htmls/page.php?id=15199&category=374>.

64 EP Foreign Affairs Committee Report on Strengthening of the European Neighbourhood Policy <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2007-0414+0+DOC+XML+Vo//EN&language=EN>; European Parliament resolution of 15 November 2007 on strengthening the European Neighbourhood Policy (2007/2088(INI)) <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2007-0538&language=EN&ring=A6-2007-0414>.

- (current ENPI funds are far from sufficient to cover all the goals listed) and securing passage of relevant decisions on the EU level (visa-facilitation; closer institutional integration with the EU). The core of the implementation process, however, rests with lower level bureaucrats and with civil society, hence emphasis should be placed on regular contacts between those responsible for implementation of concrete policies.
- f) The multilateral cooperation suggested and its relationship to the already existing BSS is still a vague concept. Moreover, the Eastern Partnership does not mention coordination with or using the resources of the players already established in the region. Some of the initiatives of the BSEC organization are fully consistent with the EU's goals for the neighbourhood (e. g. ring-road around the Black Sea; coordination of Black Sea maritime transport), it is therefore not clear why the BSEC role is omitted from the Eastern partnership proposal. Moreover, cooperation with Turkey, the EU candidate country and an active player in the region is not considered in the proposal. As already explained in this discussion paper, drafting the EU's relations to with the East and omitting major players on the ground is not a sign of strategic thinking.

# 5. POLICY RECOMMENDATIONS

## 5.1. THE FRAMEWORK

- The EU should develop a single strategic framework for its Eastern policy aiming at Europeanization of its East European neighbours and look for such reform of the ENP as presents a consistent part of it. Any reform of the ENP in/and for Eastern Europe should lead to a gradual convergence of the existing strategic frameworks of the EU policies vis-à-vis Eastern neighbours.
- The EU needs to develop a two-level strategy for its policy towards its Eastern neighbourhood. The existing bilateral framework should represent the first level for the EU's relations with individual East European countries and a new regional framework and/or frameworks for the EU's policy towards the Eastern European region should represent the second one. The ENP should preserve and further develop the existing instrument for its bilateral interaction with Eastern ENP neighbours (the Action Plan).
- The Action Plan should be viewed primarily as an instrument facilitating collaboration between the EU and a particular ENP country in the area of political modernization and democratic institution building, while new instruments (the possibility of participating in Community Programmes and Agencies, of signing sectoral agreements) should serve both the EU's interests in the region and sectoral modernization of ENP countries.
- The EU should aim at finding a way to interconnect its ENP policy in Eastern Europe with its common spaces agenda with Russia. Regional policy instruments and/or cooperation formats with participation of the EU, ENP countries and Russia are still missing. A workable

way to develop these could be the regional initiatives based on reform of the new sectoral instruments of the ENP. The regional sectoral policies based on sectoral agreements with ENP countries in Eastern Europe could lay the foundations for institutionalized regional sectoral dialogues with ENP countries plus Russia as their superstructure.

- Neither the recently proposed Eastern Partnership nor the previous Black Sea Synergy provides a proper EU response to the above challenge. Moreover, they do not bring much that is new to the EU ENP policy when it comes to the development of its already existing instruments. Regional initiatives should present a programme for how to make the best of and/or involve Community Programmes and Agencies in the Eastern neighbourhood. They should draft a programme on upgrading regional cooperation in sectors of vital EU interests. They should encourage and lead ENP countries towards conclusion of the respective bilateral sectoral agreements with the EU.

## 5.2. HARMONIZING TOOLS AND INSTITUTIONS

- The very fact of having a set of ENP tools, unlike having only the one (AP) during the period of 2005-2006, raises the question of their interplay and coherence. There is a need to upgrade a “new generation of AP” in order to eliminate the existing duplication of AP with sectoral tools.
- The AP as the ENP tool should focus on promoting political dialogue and political modernization of ENP countries, whereas new tools for sectoral cooperation (Community Programmes, Community Agencies and sectoral agreements as well as thematic dialogue) should be developed in a way so that they facilitate sectoral dialogue and sectoral reforms of ENP countries.
- Both the AP and sectoral agreements should be an integral part of an *ENP package* which the EU is going to negotiate individually with each partner country. This *ENP package* will provide the basis for harmonization

as well as transparent evaluation of various ENP tools: the AP with reference primarily to political modernization and sectoral tools with reference to various degrees of progress in sectoral adaptation by a partner country ranging from a softer thematic sectoral dialogue to a binding sectoral agreement between the EU and a partner country that may reach the status of an observer in EU institutions upon full compliance with the EU's *acquis* in a given policy sector.

- The possibility for the ENP country to conclude a sectoral agreement with the EU should be open only to those countries that are ready fully accept and approximate to the respective sectoral *acquis* of the EU.
- The key problem with AP, as lessons from Ukraine show, is the absence of transparent and measurable criteria for evaluation of the performance of Ukraine/ENP countries in implementing APs. The EU and Ukrainian authorities did not speak a “one evaluation language” on what has been achieved in Ukraine in implementing the AP. In addition, the quantitative method of evaluation of actions taken is not followed by a qualitative method of evaluation, and especially when it comes to the assessment how much the chosen actions (by Ukraine/ENP country) match with the jointly agreed priorities in the AP
- There has to be more intensive interaction between the Council and the Commission when developing the ENP on a day-to-day basis. The Council should strive to provide the Commission with more specific mandates than it has done thus far and to do so on the basis of more regular consultations with representatives of the Commission and the ENP countries. As in most policy areas the fact remains that the Commission performs only as far as the Council allows it to perform.
- The Commission should underline the principle of partnership with ENP countries and create mechanisms for the permanent presence and consultations of experts from ENP countries in Brussels. The example of some 300 Norwegian experts regularly consulting the Commission on a variety of issues stemming from

Norway's relations with the EU could serve as a model for such institutionalized interactions in the future. Initially, the EU could create permanent steering groups with representatives of ENP countries. These steering groups would cover the various policy areas of cooperation.

- Both the Commission and the Council have to overcome the model of the ENP inspired by a watered-down version of enlargement policy. Institutionally, the potential access of ENP countries to EU Agencies is not sufficient. ENP countries should have access to institutions provided they comply with the existing acquis.
- The ENP shows the strong need for a coordinated leadership of the Commission and the Council in EU external policies. In short the success of the ENP depends in part on the success of the External Action Service.
- The ENP financial instrument needs more visibility, transparency and accountability. We recommend independent verification and monitoring of funds, measurable evaluation criteria and establishment of more concrete measurable benchmarks). Moreover, it needs a clear link of conditionality of spent funds with the aims set in programming documents and reforms, esp. more responsibility of ENP countries for the results and simpler and more easily accessible compliance mechanisms should be in place to assess ENP programmes 'compliance with EU and national priorities and legislation.
- The ENPI should aim for more concentrated allocations (at this stage) including better transfer of know-how and successful project management within the country and between the ENP countries. Simpler, more varied and flexible financial (delivery) tools (e.g. Trust Fund for soft projects, policy consultations, and small projects; further reform of implementation procedures; support for project preparation) to cope with problems that ENP countries are facing. Finally, we recommend higher aid coordination with other donors and international institutions to get more successful and more effective results and impacts of the action.

### 5.3. RETHINKING A REGIONAL DIMENSION

- The Union should draw lessons from earlier regional formats of neighbourhood initiatives and use them when drafting the Eastern framework. The most successful neighbourhood policy so far has been the process of enlargement. The major lesson from the past is that an efficient policy towards any neighbourhood should offer a concrete institutional attachment of the neighbouring country to the EU, provided it fulfils conditions in a certain field/sector. If the relationship is to be a loose platform or a “project based” initiative, and the neighbouring country is not to have a prospect of “being part of” the EU, then, as experience from the South shows, progress will be slower. The current proposals on table - Black Sea Synergy, Eastern Partnership - are not a sufficient method to “strengthen the European offer” to the East. While the EU needs to carry out more projects, the projects should not become a substitute for a medium and long term vision.
- Being a newcomer to an Eastern policy, the EU should use the institutions and players already existing in the region to pursue its own goals. This is a more efficient way of doing things than starting from scratch. In the East, the potential of the BSEC organization should be explored and the BSEC should be used by the EU as a tool to achieve its own priorities. Even if BSEC cannot be expected to fulfil political reform priorities, in areas such as transport or the environment its contribution can be vital.
- The EU has to take into account Turkey’s ambition to be a regional leader in the Black Sea. More coordination is recommended in the EU’s and Turkey’s approach to the Eastern neighbourhood. Especially so, if the EU and Russia now seem to be clashing on two different levels - the Union being a normative actor, at the same time largely dependent on Russia for energy resources; Russia playing more realpolitik, at the same time being in need of EU-ean cash for oil and gas. By engaging Turkey more, the EU can become a stronger actor in realpolitik terms, by thinking more also about

the second part of the equation (it is not only the EU that needs resources but also Russia that needs money), the EU can bring different accents to the dialogue with Russia.

- The pro-European actors in the partner countries need to know that the EU sees them as part of the “EU-pean project”. If the argument of the creators of the Eastern partnership was “better keep a low profile, because a grand initiative could be refused by those who are ‘tired of enlargement’”, then the Eastern partnership avoids one of the core regional dimensions of EU’s neighbourhood policy – the inward-looking dimension. If any proposal towards the neighbourhood is to bear some fruit, then it has to elaborate more on the internal EU policies and discourses as well. The EU leaders need to avoid talk of “absorption capacity” and “enlargement fatigue” and it is recommended that the relevant players in the EU member states engage in deconstructing these terms.
- Bilateral agreements have to remain as a subject of the neighbourhood country’s bilateral relation and an individual approach of the EU towards each of the neighbouring countries. Action plans for individual countries have to remain the primary tool of an EU policy with the prime objective of helping them with their political modernization especially, building democratic institutions and civil society. The regional component of relations should be a supplementary level which extends their bilateral agenda with the EU.
- As a new tool the EU should develop sectoral agreements as proposed in the German ENP Plus. It is necessary for it to be open towards an accession of a third country or third countries, e.g. in the case of signing an energy agreement with Ukraine, the accession of Moldova or other eastern neighbours of the EU. The openness of sector agreements within the ENP should become their attribute as far as they should help the EU build regional partnerships in Eastern Europe. Sector Agreements can at first be signed bilaterally, but at the same time they should remain open to further regional

multilateralization, which is the basic assumption for building a treaty anchored sectoral regional partnership with ENP countries in Eastern Europe.

- ENP country/countries that sign an appropriate sector agreement, should gain observer status in the EU institutions that plan and implement the respective sectoral policy. In this, as a next step, the EU should start to lead a common sector regional dialogue with these countries. In the case of this dialogue the same should apply as in the case of a sectoral agreement – it should be open to other countries of Eastern Europe who did not sign a sector agreement with the EU at that particular time and regardless of whether they participate in the ENP or not. The regional sector dialogue should go beyond the ENP framework and should also be open to countries that are not ENP participants.
- The EU together with the ENP countries should leave the door open for Russia and Belarus– once they are ready – to join the regional sector dialogue. Sectoral cooperation between the EU and ENP countries based on a permanent contact of Commission representatives with respective agencies of ENP countries will have a substantive effect, which will not appear immediately, but can be expected in the mid-term horizon. A common sectoral space between the EU and ENP country/countries that signed the sector agreement and became partners in the regional sector dialogue will become much more dynamic, intensive and qualitatively different from e. g. the common space between EU and Russia, which will not be built on a sectoral agreement basis. Common spaces between the EU and ENP countries will therefore gradually become “more common” in the Eastern European region than common spaces between the EU and Russia. At the same time, they should remain open to Russia whenever it is both ready and willing to join.

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