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The Future of the ENP – some remarks and recommendations

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In late 2014, the President of the European Commission Jean-Claude Juncker decided, with the support of the EU member states, that the European Neighbourhood Policy (ENP) should be reviewed in the autumn of 2015. In their Joint Consultation Paper entitled *Towards a new European Neighbourhood Policy*, the Commission and High Representative of the European Union for Foreign Affairs and Security Policy requested consultations with as wide a scope as possible about the future shape of the ENP. The recommendations put forward do not concern the concept of the entire ENP, but focus on the Eastern European countries covered by the Eastern Partnership (EaP), which is part of the ENP. Special attention is devoted to *association countries*, i.e., countries that signed an Association Agreement (AA) – including the Deep and Comprehensive Free Trade Area (DCFTA) – with the EU in 2014, namely Georgia, Moldova and Ukraine. The recommendations are based on the discussions during an expert workshop on the future of the EaP, organised by the Stefan Batory Foundation and the Warsaw office of the Friedrich Ebert Foundation in April 2015.

1. A call for differentiation

The eastern dimension of the ENP includes six countries – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. They are clearly divided into two groups: one group comprising three of the afore-mentioned which have signed AAs with the EU, and one group comprising the other three countries – Armenia, Azerbaijan and Belarus – which will not sign an AA in the foreseeable future. The EU should pay more attention to the countries that have signed AAs. By doing so, Georgia, Moldova and Ukraine have shown their willingness to cooperate more closely and integrate step-by-step with the EU. A successful transformation of these countries into mature democracies with well-functioning market economies is essential in this regard. Moreover, this could set a positive example for the societies of other Eastern European countries, including Russia.

The implementation of the AA and the DCFTA is an enormous challenge for the political and business elites in these three EaP countries. Painful reforms seem indispensable, and many of them will be unpopular in society. For instance, in the case of Georgia new regulations have to be introduced according to the AA and DCFTA in what is a highly deregulated economy, which could be perceived as unnecessary restrictions. In all three countries there are still strong political and business groups which would prefer to maintain the status quo rather than see reforms intended to make politics and the economy more transparent.

Consequently, with regards to the implementation of the AAs and DCFTAs, the EU should not only focus on providing technical assistance but also on supporting the political processes in Ukraine, Moldova and Georgia. In other words: the EaP should be a much more politically-orientated and less technically-orientated process. On the other hand, the EU's support for those three countries cannot be unconditional. This is why in the EU's

relations with *association countries*, the “more for more” principle should also be coupled with a “less for less” principle. In this way, the EU would regain its own credibility (not least in the eyes of reform-minded civil society actors in the EaP countries) and retain the momentum for reform. The EU should learn its lesson from “bad practice” cases such as Moldova, where a corrupt governmental coalition made an effort at pro-European window-dressing while at the same time compromising the EU and its values in the eyes of society. While Russian aggression is a major factor hampering reforms in a country like Ukraine, there are also other “home-made” obstacles (such as corruption, an oligarchic system and a lack of rule of law) to transforming the country into a full-fledged democracy.

2. Differentiation, not dissolution

The upgraded relations with countries which have signed AAs together with a DCFTA do not mean that the EU should downgrade its relations with Azerbaijan, Belarus and Armenia. The general framework of the EaP should be maintained and the proposals included in the EaP – AAs with DCFTAs, full visa liberalisation and membership of the Energy Community – should remain available for all six Eastern partners. However, in the case of Armenia, Azerbaijan and Belarus, the concept of the EaP should be used to send a strong political signal to the societies of those countries rather than to make unrealistic offers of cooperation with the current authorities in Yerevan, Baku and Minsk respectively.

Consequently, the EaP summits and the annual meetings between the Ministers of Foreign Affairs from EU member states and the EaP countries should be continued, although they could be divided into two parts: the first segment would be only for countries which have signed AAs together with a DCFTA, and the second segment would be for all six countries.

3. More Than Partners

By signing Association Agreements with the EU, Georgia, Moldova and Ukraine confirmed their *European choice* and showed that they are more than partners. Therefore, the absence of the prospect of membership is a rather controversial issue for these countries. On the other hand, the EU – suffering from enlargement fatigue and societies unwilling to accept new members for the time being – is finding it difficult to openly offer the prospect of membership. According to Article 49 of the EU Treaty, any European country adhering to the Copenhagen criteria can apply for membership. Taking the *Europeanness* of Georgia, Moldova and Ukraine as a given, the EU should focus on the Copenhagen criteria, using them as an instrument to measure progress in implementing the AAs and DCFTAs. A fully implemented Association Agreement is tantamount to adopting large parts of the EU's *aquis communautaire*. In fact, it would make these countries *shadow member states*. In this situation it would be difficult for the EU to deny these states the prospect of membership.

On the other hand, the EU must come to terms with the fact that its enlargement policy is the most successful example of exerting governance beyond its borders. The EU should not ignore that the relations between the Union and its neighbours are of an asymmetric nature. It is the EaP countries that adopt European legislation, not the other way round. This asymmetry was already present during the negotiations between the EU and the candidate countries for the 2004 enlargement and might therefore be considered as a *necessary evil*. However, it impacts the willingness of the partner countries to show the commitment or ownership that the EU expects. As a consequence, in the absence of (however distant) membership prospects, even the most closely associated EaP countries might feel like they are not being treated by the EU as real partners. The EU has to understand that Ukraine, Moldova and Georgia will never be satisfied with a status comparable to members of the European Economic Area (EEA). Instead, they have a vital interest in becoming full members of the European Union and taking the path the countries of Central and Eastern Europe took in the 1990s.

4. Bilateral relations – the priority

For the EaP as a whole, bilateral relations between the individual EaP countries on the one hand and the EU on the other should be further prioritised. The main reason for this approach is that the most tangible results of the EaP, namely the AAs including the DCFTAs with Georgia, Moldova and Ukraine, as well as the lifting of the visa regime with Moldova, were achieved through bilateral relations with the EU. It is obvious that each EaP country is responsible individually for its relations with the EU, not the EaP countries as a group.

While Georgia, Moldova and Ukraine all have signed AAs with the European Union, the situation in each of these countries is unique. Therefore, the implementation of these agreements needs individual assistance from the EU which can be best achieved bilaterally.

5. Multilateral frameworks – an additional tool

The multilateral dimension of the EaP has proved to be much less successful than the bilateral relations between some of the EaP countries (Georgia, Moldova and Ukraine) on the one hand, and the EU on the other. For instance, the four multilateral platforms (1. Democracy, good governance and stability; 2. Economic integration and convergence with EU sectoral policies; 3. Energy security; 4. People-to-people contacts), designed for cooperation (a) between the EU and all six EaP countries and (b) among the six EaP countries themselves, did not achieve tangible results.

The multilateral dimension should therefore be thoroughly redesigned and be treated as an additional tool. It should focus on cooperation (a) among the three Association countries and (b) cooperation between these three countries and the EU. For instance, they could share their own experience in implementing the AAs. Nevertheless, the door should remain open for the other EaP countries (Armenia, Azerbaijan and Belarus) to take part in the multilateral meetings and other activities of this group comprising Georgia, Moldova and Ukraine.

6. Society – the decisive player

The pro-democratic changes in Ukraine, Moldova and Georgia could not have happened without strong pressure from the societies (the existence of critical mass) in these countries. Further positive changes can only be achieved as a result of this pressure. Therefore, it is absolutely crucial that the EU increases its contacts and support of the societies in these countries. Within the overall reform processes in Ukraine, Moldova and Georgia, society and social organisations fulfil a monitoring function that is pivotal in holding their governments accountable. The EU should assist the development of watchdog organisations and whistleblowers to support the democratic reform processes in these countries. Consequently, these type of contacts should be perceived by the EU as being equally as important as contacts with governments.

In the case of Armenia, Azerbaijan, and Belarus democratisation can happen only as a result of fundamental changes in society. This will be a bottom-up process. The EU should therefore support different civil society groups, both formal and informal ones.

While the *Joint Consultation Paper* asks for “engagement with civil society in its widest sense”, so far the EU has experienced difficulties engaging NGOs in the association process, let alone more loosely or even non-organised parts of civil society. Therefore, besides stepping up its engagement with NGOs, the EU should aim at enabling the society at large to benefit from the European Union. Ukraine and Georgia are on their way to achieving full visa liberalisation, and once they have implemented all the requirements of the Visa

Liberalisation Action Plan, the EU should abolish the visa regime for them immediately. On the other hand, the EU should make it clear that visa liberalisation is not about labour migration or permanent settling, but about short-term trips. Another option is expanding exchange programmes such as ERASMUS+ to include Georgia, Moldova and Ukraine as full members on an equal footing with the EU-28 and other *programme countries* such as Turkey or Macedonia.

The EaP Civil Society Forum should be further supported by the EU as a platform for all six partner countries plus the Union itself, because cooperation between representatives of all the countries could bring benefits through joint actions and solidarity, which are extremely important for supporting organisations from Azerbaijan and Belarus in their struggle with national governments.

7. Do not neglect the influence of third parties

The influence of third parties – the Russian factor in the case of the Eastern neighbourhood - should be seriously taken into account in the EU policy towards its neighbours. The EU should acknowledge Russia's attempts to influence the situation in the EaP countries and develop a genuinely European strategy to counter any attempt at undermining the European security architecture, which is based on international law and in particular state sovereignty and the inviolability of borders. Having ruled out any military action, the EU has two sources of power at its disposal; economic power (sanctions) and symbolic power. The EU should continue using the first and use the latter more wisely.

The EU should not adopt the Russian narrative of a geopolitical struggle between great powers but insist on an understanding of international politics based on international law. From the EU's perspective, Georgia, Moldova and Ukraine are sovereign partners, not figures on the chessboard of great power politics. As sovereign states they are free to decide about their engagement with other partners in the international arena. This freedom of choice must be respected.

However, there should be a clear signal to Russia that future cooperation is possible, provided that Russia is able to limit its foreign policy ambitions according to the rules set by international law. The EU should go on trying to develop policies based on offers of cooperation towards Russia without compromising European values. The EU could, for example, commission a feasibility study on the compatibility of membership in the EU's DCFTA and trade relations with the Russian-led Eurasian Economic Union.

The views expressed in this publication are not necessarily those of the Friedrich-Ebert-Stiftung.

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