Added Value? Eastern Partnership and EU–Ukraine Bilateral Relations

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Introduction

For Ukraine the Eastern Partnership (EaP) is both bad news and good news. It is bad news, since it does not respond to Ukraine’s aspirations for EU membership. Although these aspirations have been mainly declarative and not supported by reform processes on the ground, the prospect of EU membership has always been a criterion according to which Ukraine assessed the EU’s policy. Moreover, the EaP has been criticized in Ukraine for its underfunding, which has been perceived as reflecting a lack of commitment on the part of the EU. Finally, the EaP is perceived in Ukraine as having little added value, since the initiative simply extends the offer already on the EU–Ukraine table to the other EaP partners, the level of whose relations with the EU was still below Ukraine’s. In other words, the EU offered to all the EaP partners the policy tools that have been tested on and in some ways shaped by Ukraine. But the EaP is also good news, since Ukraine is now no longer labelled a »neighbor« but a »partner.« Furthermore, at least Ukrainian policymakers have come to realize that the EaP offers added value and needs to be taken advantage of.

At this stage, less than two years since the initiative’s implementation, we can assess the intentions and adequacy of the EaP only in terms of the EU’s ambition to transform the partner countries. We can also analyze perceptions on the ground and the capacity of the partner countries to make use of the declared or potential added value, not least by being proactive and coming up with ideas and proposals.

Ukraine’s Current Policy Priorities in Its Relations with the EU

Ukraine and the EU are currently in an important phase of their relationship, with the two sides negotiating an Association Agreement. It is
anticipated that it will be signed by the end of 2011, or at least that the finalization of the negotiations will be announced. Once it has done so, Ukraine will become the first country in the Eastern neighborhood to have established »political association and economic integration« with the EU. This is in line with the pattern of cooperation that the EU has cultivated with its Eastern neighborhood since the launch of the European Neighbourhood Policy (ENP), meaning that Ukraine has been the flagship country of the ENP since the very beginning. Thus, Ukraine was the first country in the Eastern neighborhood to have signed a visa facilitation agreement, which entered into force in 2008.1 Ukraine was also the first Eastern ENP country to have been granted the Governance Facility (back in 2005) as the best ENP performer in the East (Morocco was the best ENP performer in the South). Furthermore, Ukraine was also offered such instruments as TAIEX and Twinning as early as 2005; previously, they had been available only for the accession countries. Both of these programs are aimed at helping the partner countries to harmonize their law with the EU’s acquis and to upgrade the qualifications of civil servants (known as »capacity building«).

Overall, the state and dynamics of the EU–Ukraine relationship since the ENP’s launch in 2004 are qualitatively different from what they were during the previous period. Before 2004 – when the Orange Revolution took place – the EU barely had a presence in Ukraine’s domestic reform process and the intensity of contacts at different levels was fairly limited. Also, the EU was then pursuing a »Russia first« policy, offering Russia new policy tools first and only afterwards to Ukraine. With the ENP the EU became involved in the domestic reform process in Ukraine. The EU–Ukraine Action Plan, implemented during 2005–2008, contained a comprehensive list of domestic reforms Ukraine had to implement in various sectors. The European Commission launched the regular progress report, and this proved to be an important vehicle for involvement in domestic developments. The level of contacts has expanded at the political level and the level of civil servants, as well as in the people-to-people dimension, with more opportunities for civil society, students, scholars, and researchers. The degree of the EU’s involvement in terms of assistance and expertise has also become more sophisticated and intensive.

1. Russia did so earlier; but this is beyond the scope of our analysis, since Russia is not part of the ENP or the EaP.
The launch of the EaP has strengthened these aspects, although so far more in terms of plans than reality. For instance, the EaP offers a Comprehensive Institution-Building program. This program will help reform institutions in selected policy areas. This is to be a more efficient approach than that of »capacity building« for civil servants alone, as it is designed to strengthen the reform capacity of Ukraine’s public authorities. Through the four thematic platforms (»Democracy, Good Governance, and Stability,« »Economic Integration and Convergence with EU Policies,« »Energy Security,« and »Contacts between People«) the Ukrainian authorities have become involved in numerous multilateral meetings with the participation of civil servants, judicial representatives, border guards, and other professional groups from the EU and the EaP countries.

Despite the evolution of the EU’s involvement with Ukraine and the deepening of ties, the EU–Ukraine relationship can hardly be assessed as meeting the aspirations of either side, and for two primary reasons. First, Ukraine has long demanded the prospect of EU membership. Without such a prospect there is no real incentive to change things at home, despite the fact that common sense tells Ukrainians they can only benefit from the Europeanization process. However, the EU has not yet been able to make the commitment to grant Ukraine the prospect of membership. Because of this, before 2004 the EU–Ukraine relationship was often characterized as a »dialogue of the deaf«. Things are of course much better today, as Ukraine has adopted a more pragmatic approach. Moreover, since the 2010 presidential election there is less emphasis on the prospect of membership in official rhetoric.

Another problem is the lack of reforms and commitment to European values in Ukraine. Since President Kuchma’s time (1994–2005) Ukraine has claimed to be seeking EU membership, albeit without undertaking much in terms of Europeanization. This became known as »rhetorical integration«, especially given the deterioration of political freedoms during the period, which culminated in the fraudulent presidential elections in 2004. Although the political situation improved over the five years of »Orange« Ukraine, Ukraine’s leadership has failed to implement important changes, such as constitutional reform, judicial reform, or reform of public administration. Since the 2010 presidential elections, the situation with regard to political freedom has worsened, while the local election on October 31, 2010 failed to meet democratic standards. In fact, in 2010 Freedom House downgraded Ukraine from »free« to »partly free« for the first time since 2004.
With regard to its policy of European integration, Ukraine introduced the Coordination Bureau for European and Euro-Atlantic Integration in 2006. Although this was a bureaucratic response to a political problem, it nonetheless helped to streamline the endeavours of various ministries and the executive in general as far as EU-related issues are concerned. In the new government led by Mykola Azarov, the Bureau was transformed into a department at the Secretariat of the Cabinet of Ministers with its powers significantly diluted. This illustrates a lack of commitment to European integration.

The Attitude of the Political Opposition and Ukrainian Society to the EU

The issues of European integration and relations with the EU are not controversial among mainstream political forces in Ukraine. Indeed, the goal of EU accession is not challenged by either the opposition or those in power. These same political forces, however, have done too little to go beyond mere declarations and focus on implementing EU-related commitments. The lack of progress in political reforms – constitutional, judicial, electoral – and the reform of the energy sector stand out as the most vivid examples.

Both the Party of Regions and the representatives of the »Orange« team care about their image in the EU and have tried to be perceived as part of the European club. During the political crisis in Ukraine in spring 2007 both former Prime Minister Yanukovych and President Yushchenko rushed to Brussels to make their case. Yulia Tymoshenko has probably been the most active in maintaining her contacts in Brussels. Before the EU–Ukraine Summit that took place in Brussels in November 2010, both sides had embarked on what could be regarded as an information war in Brussels, and both sides rely on Brussels-based PR consultancies. This information war shows that the opinion of the EU matters to Ukrainian political leaders and gives it leverage (albeit potential) to influence developments in Ukraine.

EU-related rhetoric has also been employed by a range of political leaders in order to obtain political dividends at home. Thus, throughout 2009 both President Yushchenko and Prime Minister Tymoshenko claimed that Ukraine would sign an Association Agreement with the EU – often misrepresented as Ukraine’s »associate membership« – by the
end of 2009. Similarly, Viktor Yanukovych, as President, claimed Ukraine would be offered visa-free travel with the EU by the end of 2010 and later on that this would happen by 2012, neither of which statements were true.

This is not to say that there are no differences between the approaches to the EU taken by the various political forces. However, these differences are mostly at the level of nuance. For instance, the »Orange« part of the political spectrum in Ukraine is more oriented towards the EU than the »Blue« part. Thus, both Our Ukraine and the Yulia Tymoshenko Block enjoy observer status with the European Peoples Party (EPP) family of EU political parties. The Party of Regions, by contrast, did not seek any ties with EU parties until recently: rather, it is affiliated with United Russia, the ruling Russian party. Recently, however, the Party of Regions signed a Memorandum with the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament. The two political groups agreed to intensify contacts with a view to supporting the Party of Regions’s ambition to strengthen the process of Ukraine’s European integration. Also, the possibility of Ukraine joining the Customs Union with Russia, Belarus, and Kazakhstan was out of the question during the Orange period, whereas now it is back on the agenda. Although Ukraine’s Ministry of Foreign Affairs stresses the priority of European integration, other representatives of the government point to the fact that Ukraine might join the Customs Union before signing the Association Agreement with the EU.²

No account of the political elite in Ukraine is complete without considering the business interests behind it. The so-called oligarchs largely drive decision-making in Ukraine as the main party sponsors and have a direct presence in the Verkhovna Rada (Supreme Council) and the government. This explains why policymaking in Ukraine, irrespective of which party happens to be in power, is driven by short-term and narrow corporate interests rather than strategic thinking and the national

². See interview with Valeriy Muntiyan, Special Representative of the Cabinet of Ministers on relations with Russia, CIS and Eurasian Economic Community at Kommersant Ukraine on April 5, 2011; available at: http://kommersant.ua/doc.html?DocID=1615189&IssueId=7000737. Author’s note: if Ukraine joins the Customs Union with Russia and other CIS states, it will not be able to create the Deep and Comprehensive Free Trade Area (DCFTA) with the EU. The DCFTA is the essential part of the Association Agreement the EU and Ukraine have been negotiating since 2007.
interest. Thus, cheaper Russian gas and preserving a non-transparent gas sector are preferred over implementing gas sector reforms, as required by the EU.

Support for European integration among ordinary Ukrainians can be described as moderately good. Various opinion polls conducted by the Democratic Initiatives Foundation in recent years have indicated that just over 50 percent of the population support Ukraine’s accession to the EU. However, as the Razumkov Centre has found, when people are asked whether Russia or the EU is more important for Ukraine’s foreign policy, 51 percent of respondents state that Russia should be a priority, while only 27 percent perceive the EU as a priority. Interestingly enough, only 30 percent of Ukrainians perceive themselves to be European, and only 14 percent have ever travelled to the EU, the US, or Canada. The latter indicates that the overwhelming majority of Ukrainians have little or no first-hand knowledge about living standards and values in Western European societies.

Ukrainian Perceptions of the Eastern Partnership’s Most Important Advantages and Shortcomings

Ukraine’s initial reaction to the EaP was fairly reluctant. The key problem is that any arrangement which falls short of the prospect of EU membership is neither sufficient nor attractive for Ukraine. Particularly where the bilateral component is concerned, the perception was that the EaP did not offer anything new to Ukraine, but only extended the offer which Ukraine already had to other EaP partners. Apart from that, the lack of funding within the initiative was criticized. Hence, Ukraine decided to focus on the bilateral dimension of its relationship with the EU, while utilizing the new elements the EaP offers, be they in the bilateral or the multilateral dimension.

Ukraine is currently focused on two objectives in its relations with the EU: visa-free travel and the Association Agreement, with its Deep and Comprehensive Free Trade Area (DCFTA) component. In both respects the EaP has no added value, since Ukraine has been pursuing both objectives at its own pace. Thus, in November 2010 during the EU–Ukraine Summit the EU offered Ukraine the Visa Free Action Plan outlining the relevant reforms Ukraine has to undertake in order to become eligible for visa-free travel to the EU. This development is quite
revolutionary given that until recently the EU had avoided any commitments beyond the vague and long-term prospect of visa-free travel, but it has little to do with the EaP as such.

Looking more deeply into the EaP proposals, a number of interesting ideas have been expressed. For instance, the Comprehensive Institution-Building (CIB) program and the Regional Development programs are new elements in the EU’s policy towards Ukraine. Apart from those, the EaP offers opportunities for direct cooperation between regions of the EU and partner countries, cross-border cooperation among the EaP partner countries and, in the longer run, the possibility of a targeted opening of the EU’s labor market and the prospect of full access to the single market. All of these offers are novelties in the EU’s policy towards Ukraine and even go beyond what is currently being negotiated in the EU–Ukraine Association Agreement.

Where steps towards real projects have already taken place, it is the CIB which is most noteworthy. The CIB is aimed at reforming state institutions in selected areas. This is an important step forward as compared to the current stage where only activities that target civil servants are available – namely, the Twinning and TAIEX programs, which (although good instruments for socialization and upgrading civil servants’ skills) have had limited impact due to the fact that institutions remain unformed – hence, there is no demand for the knowledge introduced by the programs. Thus, CIB seems to be an adequate response to this issue.

The multilateral component of the EaP is potentially of added value given that this new dimension complements the bilateral relationship of the EU with the partner countries. This of course raises questions as to whether regional cooperation can be promoted among countries that are so different domestically and have different aspirations vis-à-vis the EU. Moreover, other multilateral initiatives in the region have not resulted in real projects. For instance, GUAM (Georgia, Ukraine, Azerbaijan, and Moldova) remains a forum for high-level meetings with hardly any practical cooperation on the ground.

Nevertheless, these meetings do serve as an instrument of socialization that allows officials and civil servants from the partner countries to directly encounter their counterparts from the EU member states in different areas. This kind of engagement was an important aspect of the EU relationship with the accession countries from Central Europe. However, this aspect was missing before the EaP was launched. Its inclusion is strongly appreciated by the Ukrainian participants in the EaP.
Government Engagement in EaP Activities

The Ukrainian authorities have become engaged in the Eastern Partnership mainly through the multilateral institutions which have brought into existence a number of new institutions, starting with bi-annual summits at the highest level and annual ministerial conferences, and extending to thematic panels for bureaucrats and working groups for civil society representatives. The four thematic platforms established by the EaP are also attended by Ukrainian delegations. Their participation is coordinated by the relevant central institution. Ukrainian representatives are also involved in panels established to support the work of the thematic platforms, such as the Integrated Border Management Panel, a panel on natural disasters, and a panel on combating corruption. The flagship initiatives planned within the EaP and which have the ambition of giving »concrete substance and more visibility« to the EaP are still at the planning stage. Once established and when funding is allocated, they will not only offer additional venues for the exchange of ideas and making contacts at the level of civil servants and experts from the EaP countries, but will also introduce a very practical dimension to the EaP in the form of training, projects, and concrete actions.

Additionally, Ukraine has initiated or accepted invitations to participate in multilateral or bilateral cooperation within the EaP with individual partner countries. For instance, the Ukrainian Foreign Ministry signed the Memorandum on Cooperation within the EaP with the Republic of Belarus in November 2009, according to which both countries agreed that the flagship initiative »Integrated Border Management« should be one of the priority areas for them. They also agreed to coordinate activities and come up with project ideas where transportation and infrastructure are concerned, with the aim of increasing the transit of oil and gas through the territories of both countries.

Furthermore, it was agreed that Lithuania could organize training for Ukrainian civil servants on different aspects of European integration. Additionally, Ukraine held expert consultations with Poland in December 2009 in which several ministries and other central authorities were involved and potential joint projects discussed. Cooperation with Slovakia, which prepared a position document entitled »Slovak Input into the Eastern Partnership,« was also established.

Apart from bilateral cooperation, several multilateral meetings in various configurations have taken place. Thus, the Ukrainian foreign
minister attended the informal meeting of EaP foreign ministers in Sopot, Poland, which took place in May 2010. In September 2010 an informal meeting of the Ministers of Foreign Affairs of Lithuania, Belarus, and Ukraine took place in Minsk in order to discuss the implementation of the EaP – this was already the third trilateral meeting of its kind.

As far as the bilateral dimension of the EaP is concerned, Ukraine currently regards two specific issues as having added value. These are the Comprehensive Institution-Building (cib) program and the Regional Development program. So far, only the cib has progressed as a project with substance and funding. Ukraine and the EU have already signed the Memorandum of Understanding (MoU) on the Framework Document, which defines the institutions and key issues to be tackled by the program, namely: support for implementation of the EU–Ukraine Association Agreement, trade, migration, and sanitary and phytosanitary standards.

The Response of Civil Society to the EaP

Ukrainian civil society accepted the EU’s Eastern Partnership initiative if not with enthusiasm, then with the understanding that it offers new opportunities that have to be seized. Even before the European Commission published its Communication on the EaP in December 2008, a number of Ukrainian civil society organizations developed proposals for the Commission’s Communication. These proposals were also distributed and drew a positive response from representatives of the European Commission and individual EU member states.

During spring 2009 numerous civil society events related to the Eastern Partnership took place in Ukraine, mostly in Kiev. A group of think-tank experts developed proposals for the Ukrainian government concerning the added value of the Eastern Partnership that Ukraine could make use of in different policy areas. Some NGO representatives tried to use the potential of the multilateral track of the Eastern Partnership. Thus, a Ukrainian environmental expert and civil society activist together with an EU-based colleague were invited to take part in the meeting of the second thematic platform of the EaP in March 2010. This was the first time that civil society representatives had been invited to participate in a meeting of the EaP’s thematic platform.

It must be noted, however, that only a limited circle of civil society organizations – mostly Kiev-based think-tanks – have demonstrated interest in the Eastern Partnership initiative. For the most part, Ukrainian
civil society and the general public do not follow developments in the EU–Ukraine relationship and have little awareness of the opportunities offered by this relationship. The launch of the EaP did not receive significant media coverage, not least due to the lack of clear added value for Ukraine. Thus, the debates about the EaP have not moved beyond the narrow circle of civil society professionals.

Nevertheless, Ukrainian participants at both the first (Brussels 2009) and the second Forum (Berlin 2010) gathered beforehand to develop joint proposals. Following the Forum’s first meeting, however, the Ukrainian participants failed to jointly devise activities aimed at either influencing the agenda of the four thematic platforms or raising awareness on the Eastern Partnership within civil society at large. After the Forum’s second meeting the situation improved as a number of civil society organizations established the national platform, although it is not yet clear how this is going to function.

This lack of activity and attention to the Eastern Partnership in Ukraine has to do with the broad perception in Ukraine that the bilateral track of the Eastern Partnership is the priority. From this perspective, the EaP has hardly been of added value, given that Ukraine was already ahead of other EaP countries. Thus, the Ukrainian NGOs dealing with EU-related issues have focused on implementation of the Association Agenda and the visa-free dialogue. The multilateral component of the Eastern Partnership, although a potentially interesting niche for regional civil society, has so far lacked any region-wide initiative and coordination and is yet to be discovered. It is therefore likely that the focus on the bilateral agenda of the EU–Ukraine relationship will be preserved in the activities of civil society in Ukraine.

**The EaP in the Future – Prognoses**

The strategic review of the ENP carried out by the European Union offers a good opportunity to reflect on the gains and shortcomings of the ENP and to come up with a more impact-oriented policy towards the EU’s neighbors. So far, the ENP has had little or no impact on the reform process of the partner countries. Ukraine is a good example. Even such fundamental common values as freedom of speech and freedom of assembly have been compromised, not to mention the shoddy electoral process and revision of the Constitution. If the EaP fails to make a
difference where domestic reforms in the partner countries are concerned, the EaP will be perceived as a failure. Therefore, the EaP needs to be strengthened and the EU will have to invest even more effort and resources.

It is for this reason, and given the differences among the partner countries, that the bilateral dimension of the EaP will prevail over the multilateral dimension. First, the partner countries have divergent ambitions vis-à-vis the EU, and for this reason the EU has different degrees of leverage over them. Ukraine, Moldova, and Georgia aspire to EU membership and are therefore less immune to the EU’s pressure than Armenia and Azerbaijan. Second, the development of the EU’s relationship with the Eastern neighbors so far has revealed that various EU neighbors are ready to progress in their rapprochement with the EU at differing speeds, with Ukraine and also Moldova having been willing to move ahead faster than the other neighbors. Therefore, the bilateral approach makes the EU more flexible in terms of recognizing the needs and capabilities of different neighbors. It is now clear, for instance, that the Association Agreements the EU will conclude with its neighbors will differ significantly.

Finally, support for the reform process in the neighborhood countries might require different tools on the part of the EU. For instance, financial assistance is probably the weakest tool the EU can offer to Azerbaijan, which initially refused ENPI funding. By way of contrast, financial assistance is appealing to countries such as Moldova and Georgia. The key to Ukraine is its willingness to be a part of the club and have a good image in the EU. The EU therefore can strengthen its political leverage and conditionality to increase pressure on the Ukrainian authorities.

In general, the EaP should develop in the direction of getting the civil societies of the EaP countries more involved in the transformation of their countries and the process of European integration. As the ENP’s implementation has shown, the governments of the EaP partners are reluctant reformers – if only because the demand for reforms in the partner countries is low. The EU needs to invest more in this area with the goal of increasing the demand and pressure for reforms from within the partner countries. First, more opportunities for direct people-to-people contacts between the EaP countries and the EU need to be offered. From this perspective, visa-free travel should be one of the key objectives of the EaP, as increased people-to-people contacts would encourage the demand for Europeanization.
Second, the EU needs to think about the long-term strategy for the development of civil society organizations (CSOs) in the EaP as they are the potential agents of change in their respective countries. At the moment, they are far too weak. Ukraine is a fitting example of this, for while many NGOs are active and visible, they have no impact on decision-making or public opinion. The strategy for developing civil society should be to push the authorities in the partner countries to involve CSOs in the policy process. The issues of civil society development could be part of the political dialogue with the partner countries and be reflected in the annual progress reports of the European Commission.

The multilateral dimension of the EaP is nevertheless a good idea for the region which, since the collapse of the USSR, has experienced disintegration. The multilateral dimension might help the countries of the region to share their experiences with reform and integration with the EU. It can also help to tackle common challenges, such as illegal migration, protection of the environment, and development of transport systems. This is not only an opportunity to discuss and debate, but also for common projects with clear objectives and funding for border guards, environmental agencies, and other professional groups from the Eastern Partnership countries.

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