

Is the Eastern Partnership a significant improvement of the ENP?

The Eastern Partnership is a welcome step towards a more robust integration of the East European states with the EU. However, the new policy largely retains the main conceptual drawbacks of the European Neighbourhood Policy (ENP).

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There has been a lot of enthusiasm about the launching of the Eastern Partnership (EaP) policy. The idea behind the initial Polish-Swedish proposal on the Eastern Partnership Initiative was to substantially improve the existing EU foreign policy mechanisms directed at the EU's eastern neighbours. However, as demonstrated in this paper, the new policy should be taken with a pinch of salt, primarily because it largely fails to address the major conceptual drawbacks of the ENP.

The essential problem with the ENP has been its very model of 'integration without membership', which is based on the formula 'everything except institutions'. The model of the ENP was driven by efforts to solve the 'inclusion/exclusion' dilemma of the new neighbours of the enlarged Union. The essence of this dilemma has been rather basic, i.e. how to Europeanize, democratize, stabilize (etc.) the neighbouring states without granting them the membership perspective. In theory at least, it has been imagined that the principle of conditionality would be crucial in solving this dilemma. It has been expected that in exchange for political, economic and legal reforms in the ENP countries, the EU would offer preferential access to its internal market, financial aid, visa-free travel, etc. However, hardly has this theoretical model worked in practice.

Any alternatives to the EU's enlargement policy have largely failed to work because they do not contain the mechanism which could induce third countries to reform and structurally move closer to the EU. The main factor here is the lack of membership perspective, which creates a certain vicious circle: the lack of membership perspective does not create motivation to reform and the lack of reform inhibits more profound structural integration between the partner states and the EU.

Another drawback of the ENP was that it lumped together the eastern and the southern neighbours into a single policy framework. Between themselves these countries differ to a great extent in terms of their political cultures, they face very different socio-political challenges and are dissimilar culturally and, not least, geographically. The very fact that European countries like Ukraine have to participate in the same policy framework as African countries devalues the structural effect this framework can have on Ukraine's transformation. After all, the EU treaties leave the option of membership open for those countries that are geographically in Europe. This distinction, however, has been blurred by the ENP. In this regard, the positive added value of the EaP is that it separates the eastern EU neighbours from the southern ones by engaging them into different policy frameworks.

More specifically, one can discern the following major elements of the EaP:

Association Agreements. The EaP foresees a possibility for the partner countries to eventually conclude Association Agreements (AAs) with the EU. Currently all six EaP countries are covered by the Partnership and Cooperation Agreements (PCAs). The AA is a deeper agreement and covers more cooperation areas than the PCA. However, in the case of the EaP countries the conclusion of the AA is going to be conditional on whether the partners will have made sufficient progress towards democracy, the rule of law, respect for human rights, the principles of market economy, sustainable development and good governance¹. This process might actually last for years.

What is more, even the ENP did not exclude the possibility to finally conclude an AA. Ukraine has already started negotiations on it. And even if the AAs are ultimately concluded with the EaP countries, this would only mean that they are at the very end of the list of countries having done that². As can be seen from the list below, some countries as far away as Chile have concluded an Association Agreement with the EU. However, not all of the AAs are similar in their content and ambition. For example, the Stabilisation and Association Agreements (SAA) signed with the western Balkan countries do contain a clause about their potential membership in the EU. Agreements with Chile or South Africa apparently lack such a clause. Therefore the question remains open on how profound the AAs would be with the EaP countries and whether they would contain the EU membership perspective.

Free trade. One of the goals of the EaP is to achieve gradual economic convergence between the EU and the partner countries with a possibility to create a 'deep and comprehensive free trade area' (DCFTA) in the future. The framework also envisages an eventual creation of a common economic space with the partner countries – the Neighbourhood Economic Community (NEC). So far the idea behind the NEC is to create a free trade area based on the model of European Economic Area (EEA). The EEA is a classical example of how the EFTA (European Free Trade Area) countries have managed to achieve harmonization with the EU without actual membership in the Union. Countries like Norway, Iceland or Liechtenstein have adopted all of the EU's *acquis communautaire* related with the functioning of a single market (except for fisheries and agricultural products) but have retained sovereignty over tariffs or trade policy, including anti-dumping measures.

It is not clear, however, that the EaP countries could achieve such level of harmonization and integration with the EU or among themselves any time soon. One has to take note that the costs of a full opening of the economies for these states would be especially high; that it will take years before sufficient legal and regulatory approximation can be achieved; that structural weakness of their economies can bloc attempts to expose their industries to tough

¹ EurActiv.com, 'EU launches Eastern plan in Russia's backyard', 8 May 2009 -

<http://www.euractiv.com/en/enlargement/eu-launches-eastern-plan-russia-backyard/article-182123>

² Countries having already signed Association Agreements: Albania SAA (2009) / Algeria AA (2005) / Bosnia and Herzegovina SAA (signed 2008, entry into force pending) / Chile AA (2003) / Croatia SAA (2005) / Egypt AA (2004) / Israel AA (2000) / Jordan AA (2002) / Lebanon AA (2006) / Mexico AA (2000) / Montenegro SAA (signed 2007, entry into force pending) / Morocco AA (2000) / Palestinian Authority interim AA (1997) / Serbia SAA (signed 2008, entry into force pending) / South Africa AA (2000) / Former Yugoslav Republic of Macedonia SAA (2004) / Tunisia AA (1998)

European competition; that the EaP states have ongoing commitments to other regional economic organizations; and that substantial harmonization of their economies will be hard to achieve because of their political, economic and geographical differentiation. Without a significant motivating factor – like the EU membership perspective – prospects that the EaP states would integrate into a single EU market remain low in the short to medium term.

That is why the EU might wish to proceed with the model applied to the Barcelona process countries, when free trade is foreseen only for certain types of goods (with restrictions for the free movement of services, capital, and agricultural as well fisheries products). In this case, however, the EU would need to alter the existing policy mechanisms vis-à-vis the EaP countries and exclude requirements for a more profound legal and regulatory harmonization. On the other hand, the EU might consider developing more conventional trade liberalization through an enlarged CEFTA process, which could potentially be stretched to include Ukraine, and in due course perhaps other EaP countries³.

The EU should also take into account the fact that adaptation pressures for the EaP countries are low at the moment, i.e. the partner countries have little to gain and much to sacrifice. For example, Ukraine is foremost interested to have a free trade agreement with the EU that covers all of the sectors (including agriculture). Since it has a special agreement with the EU on steel exports, even full liberalization of trade in manufactured goods only would not create substantial inducements to reform. In other words, with the requirement to undergo significant domestic transformation without offering something that Ukraine wants, the EU might be asking more for less.

That is why the EU should put efforts to set the adaptation barriers lower, offer more incentives and require less in the short to medium term. The risk now is that setting the adaptation barriers too high might offset reforms. On the other hand, more realistic adaptation barriers would have the potential to create a certain adaptation momentum.

Increased mobility. The EaP seeks for increased mobility through visa facilitation and readmission agreements. However, this option has also been envisaged in the ENP but so far very little has been achieved. Moreover, in relation to Ukraine for example, the European Council on 19-20 May decided to change the notion of visa-free travel to visa “liberalization” regime. It is therefore hard to see any added value created in this regard.

Multilevel contacts and multilateralism. The EU also hopes to socialize the EaP states by involving them into more intense multilateral and multilevel contacts. The EU proposes to set up four platforms, bringing the eastern partners together to exchange experience and information on issues like:

- Democracy, good governance and stability;
- Economic integration and convergence with EU policies;
- Energy security, and;
- Contacts between people.

³ Helen Wallace, ‘The European Union and its Neighbourhood: Time for a Rethink’, ELIAMEP Thesis, May 2009 - <http://www.eliamep.gr/en/european-integration/publications-european-integration/eliamep-thesis-42009-the-european-union-and-its-neighbourhood-time-for-a-rethink/>

Within these platforms senior officials will meet twice a year to set common programmes. Once a year a summit of ministers of foreign affairs will be held to evaluate the progress made and will set more general guidelines. Every two years heads of states will hold a summit to draw overall guidelines of cooperation. The EaP also intends to foster more multilevel contacts involving researchers, experts, business, civil society, etc. Politicians are to be drawn into an EaP parliamentary assembly, which should be formed when the new European Parliament begins work next September.

It is hoped that increased contacts would encourage the creation of the whole network of specialists, institutions and departments in the partner countries oriented towards cooperation with the EU. Just as the experience of the Central Eastern European states demonstrates, more intense cooperation inevitably creates a demand for structures to organize such cooperation. This in turn strengthens the socialization effect and fosters a continuously increasing nucleus of 'Europeanized' specialists and bureaucrats in the partner country.

Regulatory approximation and institution building. The EU also intends to intensify regulatory approximation efforts as well as improve administrative capacity of partner countries in all relevant sectors of cooperation through jointly-decided Comprehensive Institution Building (CIB) programmes. CIB is designed to ensure that "apart from approximating legislation and aligning procedures, [CIB is] to ensure national ownership and effective enforcement of the approximated rules and regulations"⁴. In fact the majority of the additional EaP funds (around 55%) will be dedicated to various CIB programmes. This aspect is different from the policy the EU applies to its southern ENP countries, which do not have the aim to harmonize their legal and regulatory base with that of the EU. Efforts to 'initiate a structured approximation process, supported by the CIB'⁵ should be met positively.

Energy security. The EU also wishes to use the EaP framework to improve its energy security. It envisages stronger energy security cooperation, including through support for investment in infrastructure, better regulation, energy efficiency and more efficient early-warning systems to prevent disruption of supply. The 'southern energy corridor' project is one of the 'flagship initiatives'⁶, which should get special focus and funding from the EU. On the other hand, it will be essential for the realisation of the multilateral dimension of the EaP to involve the main international financial institutions, the World Bank, the EIB, the EBRD and indeed private capital. The grant finance from European Neighbourhood Policy Instrument (ENPI) can frequently be used as a way of attracting these major lenders to support the flagship projects⁷.

⁴ The European Commission's Delegation to Armenia, 'Concept Note for the ENPI National Indicative Programme for the Republic of Armenia 2011-2013' - http://www.delarm.ec.europa.eu/en/eu_and_armenia/enpi.htm

⁵ European Commission, 'Eastern partnership: Communication from the European Commission to the European Parliament and the Council', COM(2008) 823, 3 December 2008 - http://ec.europa.eu/external_relations/eastern/index_en.htm

⁶ Other five 'flagship initiatives': a border management programme; integration of electricity markets, energy efficiency and renewables policies; an SME facility; and a common response to disasters.

⁷ Christophe Hillion and Alan Mayhew, 'The Eastern Partnership – something new or window-dressing?', SEI Working Paper No 109, Sussex European Institute, p.16

As can be seen from the discussion above, most of the elements of the new policy are not without drawbacks and they often lack substance. One can single out a few more problems related with the EaP.

First, the EU has not allocated significant funding for the policy. It is foreseen that €600 million will be spent for the EaP during the next four years. However, only €350 million will be ‘fresh’ funds, since €250 million will be re-programmed ‘under the current ENPI envelope’. This means that only less than €100 million will be allocated for all six countries per year or around €15 million for each country on average.

Second, the EU in no way solves the ‘integration without membership’ dilemma. Countries like Ukraine are placed into the same category of EU partners as Azerbaijan, Armenia or Belarus – countries having no membership prospects in the medium or even long term. Arguably, a smarter policy would be for the EU to keep the door open for both current and further potential candidates, depending on their processes of transformation and subject to the firm retention of pre-accession and accession conditionality. This suggests that we should blur rather than sharpen the line between the “candidates” and “potential candidates” and concentrate on thickening and deepening functional cooperation, as well as investments in political and economic stabilization⁸.

Third, it is not clear there will be enough political will to support the policy. The political circumstances surrounding the launch of the EaP might be indicative of the attitudes prevalent in many European capitals. It seems that almost all European leaders tried to find an excuse for not coming to Prague on 7 May. This might simply indicate the unwillingness of most of the countries to engage in the project. If that is the case, then the EaP might not ‘last longer than 2013, when the €600 million will run out’⁹.

Fourth, the establishment of the EaP as a new instrument of the EU’s eastern policy inevitably increases expectations. Unless the new initiative delivers tangible results, the risk is that it will lead to a widening of the gap between partners’ expectations and EU deliverables¹⁰.

In sum, the Eastern Partnership contains significant potential but much will depend on how Europe treats this policy. In other words, the main problem still lies in the EU itself, i.e. how much it is really willing to integrate its eastern neighbours. The EaP can serve as a significant improvement of the ENP, but it remains contingent on the political will on the European side to create sufficient inducements for the eastern partners to undergo structural transformation and move closer to the EU. ■

⁸ Wallace

⁹ Dominika Pszczółkowska, ‘The East not in fashion anymore’, *Poland in the EU blog* - <http://polandintheeu.blox.pl/2009/05/The-East-not-in-fashion-anymore.html>

¹⁰ Hillion and Mayhew, p.21