



CONVERGING INTERESTS OVER UNDEFINED SUBSTANCE? THE POLISH PRESIDENCY AND ITS EASTERN PARTNERSHIP AGENDA IN THE LIGHT OF THE CZECH REPUBLIC'S PRIORITIES

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The Polish EU Council Presidency has clear ambitions to keep the Eastern Partnership (EaP) on the front burner of the EU agenda. [1] Together with its focus on civil society, democracy promotion and new initiatives underpinning these efforts, this priority goes hand in hand with the interests of the Czech Republic. The September Eastern Partnership Summit in Warsaw (September 29) that replaced the originally envisaged event in Budapest (scheduled for May 2011) should bring a policy climax with an ambitious agenda (new EaP roadmap) already announced. However, the Eastern Partnership region has been presenting a disturbing picture over the last couple of years. With the exception of Moldova, the human rights records have deteriorated, the democratic developments have been backsliding, and the authoritarian and semi-authoritarian regimes have consolidated. Meanwhile some EaP partners have been clearly losing appetite for deeper engagement with the EU on the basis of existing negotiations (Ukraine), or feel uncomfortable with the framework (especially with the Deep and Comprehensive Free Trade Agreement /DCFTA/, Georgia). Others are facing the EU's lack of push for finalizing the agreements, and are dissatisfied with the "accession minus" approach (Moldova). The EU has also proved limited ability

to use the appealing tools (visa liberalization, visa facilitation) for delivering on broader goals of the EaP policies.

The Eastern Partnership was officially launched on May 7, 2009, and its bilateral and multilateral framework (intergovernmental platforms and expert panels) has been operational roughly for two years, with some of the elements still in the pipeline (e.g. expert panel on judiciary). The Eastern Partnership policy was prompted in part by the discontent with the European Neighbourhood Policy (ENP), particularly in the region itself. The EaP is far more explicitly multilateral in intention. Not only does it finally at least acknowledge the specific character of the Eastern neighbours, but it promises more engagement, joint ownership and regional initiatives. However, the Association Agreements that will explicitly incorporate the EaP's four thematic platforms (democracy, good governance and stability; economic integration and convergence with EU sector policies; energy security; contacts between people) mostly remain, for different reasons, to be completed. One of the Polish presidency ambitions is to keep the negotiations on the Association Agreements, including the DCFTAs, and visa liberalization dialogues with



Moldova and Ukraine on track (and enlarge Mobility Partnerships of other EaP countries but Moldova and Georgia; Armenia is next on the list). However, these negotiations run on bilateral basis between the respective EaP country and the European Commission, and the Council Presidency does not have a substantive leverage on the issue. The Polish Presidency will thus most likely focus on the agenda covered within the last Communication on the ENP Review^[2] under the heading “Partnership with Societies”, i.e. especially on support to the civil society (and to its “institutionalized” part embodied in the EaP Civil Society Forum), and the new funding instruments (ENPI Civil Society Facility, European Endowment for Democracy), as, given the situation in most EaP countries, this component is seen as vital, and as an alternative channel for communication and source of expertise. A general consensus on the need to promote these objectives has been already found among the key players (Polish Presidency, European Commission – especially Commissioner Füle, European External Action Service, like-minded member states), with the European Parliament generally assenting to this policy line, and with its new specific role within the recently established Euronest where key Polish MEPs were appointed to important positions. As the active approach of the Polish Presidency towards the EaP region, and the general priorities are also in line with the interests of the Czech Republic, maximum should be done in order to use the momentum of the key stakeholders’ converging interests. However, the devil is in the details, and as many of the initiatives do not have a clear policy substance, some obstacles and clashes may emerge on the way.

ENP Review and Its Implications for Eastern Partnership Policy

The Commissioner for Enlargement and European Neighbourhood Policy Stefan Füle and the High

Representative/Vice President Catherine Ashton presented the results of the review of the European Neighborhood Policy on May 25, 2011. In their generally well received Communication that contains new ambitious policy concepts and funding instruments the idealism on the ENP approach remains present. The “deep democracy concept” should provide for a clear and more comprehensive approach, clarifying on the experience with the stability objective that has been gathered especially in the Middle East/North Africa (MENA) region over the last decades and that taught the international actors that stability cannot be decoupled from democracy and democratic development further on. The principle of conditionality is understood as “mutual accountability”, as the EU policies and “lecturing” to the neighbouring partners were overtaken by the recent events, and the rule “more for more” shall apply further on. At the same time, it is quite unclear how some of the new concepts suggested in this policy document will materialize in reality and what the implementation substance will be, as the European Commission and the EEAS seem not to have the proposals ready. In relation to the “more for more” principle, the Commission is working on the new conditionality of the financial support that should have a mechanism allowing for decreasing support to the partner governments while increasing the support to the civil society when the benchmarks are not met. At the same time, the Commission acknowledges the problems with channeling resources to the civil society organisations. It is currently working on a scheme of a “clearing house” when the funding would go through a consortium of CSOs.

- *On the general funding side of the policy, the Commission already proposed to cut allocations to some partners in Central and South America and Asia, and re-allocate these resources mainly towards the MENA region. The Polish Presidency and the Czech Republic should support this proposal as it decreases perceived competition over funding between the South and East Neighborhood.*



Benchmarking

A new set of benchmarks to be developed was proposed by Commissioner Füle along the areas of free elections, freedom of association, free media, rule of law, independent judiciary, fight against corruption and democratic control over the armed forces. It is already obvious the benchmarks will turn out to be the weakest spot of the review and the policy implementation as such, as nobody has an answer on the principle or the optimal methodology to be followed. Whether there is one general set of benchmarks and, given the various state of development in the ENP countries, how these will be applied and compared in reality, especially with regard to the “more for more” principle, is unclear. In case of the EaP countries, the question whether a specific set of EaP benchmarks should be developed and what would be the added value of such an approach should be addressed first. The new benchmarks for the EaP countries make sense only if acknowledged and internalized by the EaP governments as - with the exception of Georgia - the reforms and transitions are externally-driven. Any set of even loose benchmarks, if the EaP governments are committed to it, would be a step forward that could initiate not only a reaction on the assessment but a policy response to the criticism. However, some countries already signaled no agreement on the new benchmarks is in place and the data on implementation would not be delivered anyway (Ukraine). Some believe the “more for more” principle can be based only on country-specific, specifically formulated benchmarks, as some of the suggested areas for benchmarking are not relevant in some countries (namely Moldova).

- *The Polish Presidency and the Czech Republic should actively engage in the debate on the benchmarking, and in cooperation with other key stakeholders come to an agreement on a joint approach. If such a set of criteria materializes, and is endorsed by both sides, the local civil society should be involved in their formulation, and also given a mandate to participate in the official monitoring. There are already several projects*

implemented by the civil society aiming at developing a new methodology of benchmarking, including the European Integration Index for the Eastern Partnership Countries implemented by the International Renaissance Foundation (Ukraine) that offer promising results. And there are natural candidates for generally accepted benchmarking in some of the policy areas (e.g. GRECO in the area of fight against corruption).

ENPI Civil Society Initiative (Facility)

The incentive for a new facility from which the civil society could be funded and that would work within the European Neighbourhood Policy Instrument (ENPI) has emerged within the Eastern Partnership Civil Society Forum and was taken on board by the EEAS and the European Commission when preparing the ENP review. It is one of the elements of the re-launched policy which is already under discussion, including the implementation substance that is being prepared by the DG DEVCO. The facility should run in 2011–2013 on preliminary allocation of 60 million EUR (20 million EUR distributed each year of the cycle) with no *a priori* geographic distribution of the funding between the East and the South. The DEVCO proposal speaks about non-state actors (NSAs) defined in a broader way than the civil society as the targets of the new initiative. Out of the three proposed components, the Component 1 (Strengthen NSA capacities to promote reform and increase public accountability) that is to be implemented in 2011 most likely aims at the ENP South, as it mainly focuses on the trainings and capacity building. A comprehensive analysis of the needs in every ENP country conducted by the European Commission and EEAS should precede the programming of the call under the Component 1. Given the still understaffed EU delegations in most of the countries and lack of strategy on how to involve the local actors into the preparations of the comprehensive analysis, the quality of the outputs



and the timeline of delivery remain unclear. Despite this, DG DEVCO envisages the first calls for proposals to be launched in the second half of October 2011, as the final financial decision on the Initiative should be adopted sometime at the beginning of October 2011. The multi-stakeholder consultations at national level involving NSAs should be also supported under Component 1. Component 2 (Strengthening NSAs through support to regional or country projects) should run on the course of the whole programming cycle, and provide funding for projects related to ENP implementation (mostly monitoring projects), Eastern Partnership and Union for Mediterranean based on regular calls for proposals under still unspecified terms, however regulated by the existing Financial Regulations and Implementing Rules, and thus not appropriately flexible. A specific call for the regional flagship project can be launched, most likely on the issue of improving the environment for NSAs, which is generally a well-selected priority in relation to the EaP region. Component 3 (implementation in 2012 and 2013) should aim at encouraging partner governments to propose and implement bilateral programs aiming at reinforcing civil society.

The Polish Presidency and the Czech Republic should promote that

- *the maximum flexibility of funding should be employed within the new initiative, using the European Instrument for Democracy and Human Rights (EIDHR) template and some of its specificities (funding of non-registered NGOs). Despite the existing implementation shortcomings within the EIDHR itself, it provides maximum flexibility within the DG DEVCO management framework;*
- *allocate part of the resources, with regard to the outcome of the real spending of the 2011 budget line, to the structural support of selected organizations, following the features of the framework used by the EACEA for the intra-EU calls for structural support of selected parts of the EU civil society;*

- *abolish the Component 3 in relation to the EaP countries, possibly with the exception of Moldova and Georgia, as it is quite clear it would deliver undesired outcome (funding of GONGOs);*
- *Russia and Russian organizations should not be eligible under the new initiative as there are other funding instruments and Russia is not part of ENP;*
- *The Polish Presidency and the Czech Republic should scrutinize the Comprehensive analysis of needs that will provide basis for distributions of allocation under Component 1 of the facility.*

European Endowment for Democracy (EED)

One of the new ideas mentioned in the ENP Review is the proposal to establish the European Endowment for Democracy. The concept has been already promoted by Poland and is going to be one of its flagship initiatives during the Presidency. At the moment, neither the Commission, EEAS nor Poland have a clear idea on the substance of the proposal. In the Polish non-paper one can read “we are open to all proposals” regarding the substance and organization of the EED but also that the EED should be built along the lines of US National Endowment for Democracy (NED). However, such a structural mimesis would bring inherent difficulties not least because of NED working on the partisan principle.^[3] The representatives of the EEAS when asked about the implementation outline of the EED provide no concrete answer. A policy paper of the influential Polish think-tank (The Institute of Public Affairs) listing recommendations to the Polish Presidency in the area of democracy support^[4] suggests building on the existing European Partnership for Democracy that emerged in relation to the 2006 clash over the EIDHR reform and that is currently supported by



several member states including the Czech Republic.

- *The EED should not emerge at the expense of termination of EIDHR as it is hardly imaginable a similar budget line would be allocated to the newly established body from the Union budget and the Commission would not be keen on giving up control over such spending. The overall result could be a diminished, rather than increased, support to the human rights and democracy. The Commission in its open consultation already tested ground for abolishing EIDHR in 2013–2020 and the launch of EED could serve as a further argument.*
- *Building on the existing European Partnership for Democracy when designing the EED would have to be based not only on the critical mass of like-minded member states, support from the Commission and EEAS, but also on the support of the European Parliament where the political foundations and other competing actors have their influential avenues for lobbying. The Polish Presidency and the Czech Republic as the supporters of the idea should develop a strategy for pre-empting the efforts of the initiative being watered down by the competing actors.*
- *The ENP Review wording on the EED suggests the new body should “help the political parties, non-registered NGOs, trade unions and other social partners”. The Polish Presidency and the Czech Republic should also take into consideration the likelihood of strong lobbying efforts of the European Economic and Social Committee on the substance of the EED, and try to take preemptive steps in line with their idea of the content proposal.*

Human Rights Dialogues

Reinforcement of the Human Rights Dialogues is also suggested by the ENP Review as one of the in-

struments for achieving the “Partnership with Societies”. While the EU attempts to include the human rights issues into all meetings and discussions with third countries (mainstreaming) and ensures that a reference to human rights is included in programming discussions and in country strategy papers, in some cases the only forum for discussing the issue is the Human Rights Dialogues, involving not only state authorities but also the civil society. As far as the EaP countries are concerned, the EU opened HRD with Armenia (the second round in December 2010), Azerbaijan (within dialogue on Justice, Freedom, Security, Human Rights and Democratization, the first round held in December 2010), Belarus (the first round was held in June 2009), and Moldova (launched in February 2010). There is no specific HRD with Ukraine. The first meeting between the EU and Ukraine on the human rights took place only on May 27, 2011, but was closed to the civil society and no information from the meeting was revealed. The HRDs format has been criticized for several reasons by experts, local civil society, and other stakeholders (European Parliament). The persistent issues are lack of consistent review mechanism of benchmarks that are set when the dialogue is open but not made public, understanding the HRDs as a complementary policy instrument but limiting the discussion on the human rights to it (HRDs serving as an excuse not to talk about the human rights on other occasions), principle of reciprocity and poor strategic planning. In the EaP countries, the civil society is mostly involved in the process but the whole issue is considered rather formalist and the motivation to take an active part is generally lacking. In some countries, the process has not been considered transparent with the EU not disclosing information to civil society (Georgia, Ukraine).

The Polish Presidency and the Czech Republic should focus on the “reform” of the HRDs that can be implemented only within the Council working parties (COHOM and CODEV) so that they can finally deliver.

- *The HRDs can become an effective tool only if they are not isolated efforts but continuous processes, including consistent work*



with the local NGOs and using the information, assessment and monitoring reports of independent civil society on the daily basis (not only with the next round of HRDs approaching).

- *For such a permanent communication and flow of alternative information the Eastern Partnership Civil Society Forum's National Platforms can be used.*

Council Conclusions on Democracy Support

Council Conclusions on Democracy Support in the EU's External Relations and its Agenda for Action were adopted on 17 November, 2009, and 13 December, 2010 (Progress Report and the List of pilot countries). The Comprehensive report on the implementation of the Conclusions is to be presented in early 2012. Out of the EaP countries, Moldova was selected as the pilot country for the assessment that might not be the best test case of incoherencies of the EU approach to democracy promotion within the region.

- *The Polish Presidency will most likely engage actively in the implementation of the Conclusions and the Czech Republic should support its efforts to present the findings on the pilot countries in line with the envisaged deadline.*
- *Based on the findings, both countries should push for better mainstreaming and implementation of the democracy support within the existing and emerging EU instruments.*

Role of the Civil Society and the Eastern Partnership Civil Society Forum

Given the rather negative trends related to the democratic transformation and the state of the human rights in the EaP countries, the local civil society plays an indispensable role of watchdogs, whistle-blowers, source of alternative information, monitoring and assessment, and pool of innovative expertise, approaches and knowledge. With the development of various platforms and networks, the civil society starts operating increasingly in the regional context, too. In parallel, further steps are taken by some of the regimes to curtail their room for operation, access to information, and to challenge the credibility of the independent actors. The institutionalized forum of cooperation of the EU and EaP civil society – the *Eastern Partnership Civil Society Forum* – that is supported by Poland as well as by the Czech Republic proved a viable concept over more than two years of its existence. Its structure and composition copies the multilateral segment of the EaP, with the additional six National Platforms established in the EaP countries. There are still certain deficiencies of the Forum^[5] but its added value has been already manifested.

- *The Polish Presidency and the Czech Republic should continue their support for the Forum voiced at various working levels, and keep lobbying for further tools supporting its activities like the secretariat or the permanent participant status. The issue of CSF's permanent participant status that would allow for better access of the CSF representatives to the work of the EaP Platforms and expert panels should be raised during the September 29 Eastern Partnership Summit in Warsaw as some of the EaP countries that used to block this proposal in the past (Azerbaijan) signaled their greater openness to it.*



[1] “The role of the Polish Presidency will also be to ensure that Europe does not lose from sight its Eastern neighbors. As a part of the Eastern Partnership, Poland wants the process of signing association agreements and free trade areas (among others finalizing or moving forward negotiations with Ukraine and Moldova) to continue. The Polish Presidency will move forward the negotiations on visa liberalization. We hope that the key political decisions to this end will be made in September as part of the Eastern Partnership Summit, with the participation of all heads of state and governments of member and partner states. With regard to Belarus, the aim of the Union is to encourage this country to work with the West, provided it “respects the fundamental rules of democracy and human rights.” Polish Presidency of the EU Council, 31/05/2011, <http://prezydencjaue.gov.pl/en/what-is-the-Presidency/430-the-priorities-of-the-polish-Presidency-of-the-eu-council>

[2] Joint Communication by the High Representative of The Union for Foreign Affairs and Security Policy and the European Commission, *A New Response to a Changing Neighborhood, A review of European Neighborhood Policy*, May 2011, European Commission, Progress reports on implementation of the European Neighborhood Policy, 25/5/2011, http://ec.europa.eu/world/enp/documents_en.htm#3

[3] Emerson, Michael, Review of the Review – of the European Neighborhood Policy (editorial), CEPS European Neighborhood Watch n. 71, 2011, <http://www.ceps.eu/system/files/simplenews/2011/05/NWatch71.pdf>

[4] Svarovska Gabriela, Kucharczyk Jacek, Strengthening EU Democracy Support as a Task for the Polish Presidency – lessons learnt and challenges ahead, Discussion Paper, Institute of Public Affairs, Warsaw, 2001, <http://isp.org.pl/uploads/pdf/1754845022.pdf>

[5] As recently pointed out by IPA paper In. Kaca, Elzbieta, Kucharczyk, Jacek, Lada, Agnieszka, Eastern Partnership Civil Society Forum & How to improve it, Institute of Public Affairs, Warsaw, 2011, <http://www.eap-csf.eu/en/news-events/articles-analytics/research-paper-eastern-partnership-civil-society-forum-how-to-improve-it/>



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