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Veröffentlichungsversion / Published Version
Arbeitspapier / working paper

SPES Policy Papers

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August 2010

VolkswagenStiftung

Institut für Europäische Politik

The Study Programme on European Security (SPES) has been supported by the Volkswagen Foundation. This support is gratefully acknowledged.

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ISSN 2191-0006

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Acknowledgments

I would like to thank the Institut für Europäische Politik, Berlin and the Volkswagen Foundation for having enabled my participation in the SPES Programme and my stay in Berlin in October 2009. Special thanks go to Mariella Falkenhain, Coordinator of the SPES Programme for her dedication and support, as well as her numerous comments and advice throughout my work on this paper. I would also like to thank Prof. Dr. Mathias Jopp, Dr. Elfriede Regelsberger, Dr. Susan Stewart, Prof. Dr. Tanja A. Börzel, Prof. Dr. Alina Mungiu-Pippidi, Dr. Marianne van de Steeg and Dimitri Gorchakov for their insightful comments on an earlier draft of the paper. The draft paper was also presented at a workshop at the Institut für Europäische Politik and a Jour Fixe of the KFG 'The transformative power of Europe' at the Freie Universität Berlin in October 2009 and the International Summer School on "Approaches to Post-Soviet Transformations" in Dnipropetrovsk (Ukraine) in July 2010. The participants of these events offered the opportunity for debate and useful suggestions.

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Introduction

A number of studies have been published in the past years on the power of the European Union (EU) to support post-communist transformation in the countries covered by the enlargement policy. Yet, relatively few attempts have been made to look at the countries where the EU seems to have certain ambitions, but which are beyond the EU's enlargement policy. Ukraine is one of these countries. Beside the fact that Ukraine can be considered a test case for the EU's 'transformative power' (Grabbe 2006) in the region, it is also a country whose stability and success of reforms would have a strong impact on the security of the EU. This is not only due to the fact that Ukraine is the largest country in Europe (territory-wise, apart from the European part of Russia) directly bordering the EU and has a population of over 45 million, but also due to the potential spillover effect that developments in Ukraine might have on the region. If Ukraine sets a precedent of successful democratisation supported by economic growth and improvement in quality of life, it might well encourage similar developments in the other countries in the region, including Russia. Therefore, the EU's success in supporting the reform process in Ukraine will contribute immensely to the EU's own long-term security and stability. From this perspective, it is important to understand the impact the EU has had on internal developments in Ukraine since the European Neighbourhood Policy (ENP) was launched.

At first glance, developments in Ukraine over the past years seem to suggest that the ENP has by and large failed. From the onset, the policy was aimed at promoting democracy, good governance and the rule of law, and these notions underpin all the ENP-related communications of the Commission and the Council's decisions (European Commission 2004, 2006b, 2008). Yet, in the years following the Orange Revolution and the launch of the ENP (2004) Ukraine made almost no progress in the reform process[1] and experienced constant political instability or even crisis. Although the 2010 presidential elections put an end to the political infighting, they resulted into a de-facto one party rule with worrying trends towards limiting political freedoms. At the same time, the ability and, more importantly, willingness of the new government to implement reforms remains questionable.

This paper, however, attempts to take a more complex approach, looking at different actors and processes in Ukraine and trying to trace the resonance, if not impact, the EU has had on them. This approach departs from the assumption that transformation and reforms cannot be imposed from outside, and claims that in order to succeed, the external pressure has to be matched by strong reform coalitions inside a partner country. The external actors, including the EU, can at best support domestic actors, structures and processes that already have a potential to foster reforms, but not replace them. The Europeanization literature, which combines rationalist and constructivist approaches (Börzel 2010), offers a useful framework for our analysis. It emphasises the role of both state actors and non-state actors in bringing about the change. From the rational choice perspective, the EU can have an impact through conditionality by offering rewards that outweigh the domestic adoption costs. If the costs are too high for the ruling political elites, the EU's conditionality works through "differential empowerment of domestic actors" (Schimmelfennig/ Sedelmeier 2005: 11-12) by changing the domestic opportunity structure in favour of pro-European domestic actors outside of the power structures. In the latter case the EU creates a power asymmetry, since it makes the electorate reassess the costs of having a government, which hinders the integration of their country with the EU (Schimmelfennig et al. 2005: 40). The constructivist approach emphasises the role of norm entrepreneurs, such as epistemic communities and advocacy networks, who socialise domestic actors into EU norms and therefore change their interests and identities (Börzel 2010: 3). Brought together, these two approaches try to establish the EU's interplay with different domestic actors, both within the power structures and outside them.

While these approaches were explanatory where the Central and East European Countries (CEECs) were concerned, it is not the case in Ukraine and other ENP countries in the East. The EU's policy, which can be characterised as a much weaker derivative of enlargement[2], is matched by the domestic situation, which poses many more challenges than was the case with the CEECs. The EU's conditionality and incentive structure is much weaker, which reduces the EU's pressure for reforms in Ukraine. Moreover, the adoption costs for incumbent rent-seeking political elites are too high

1 However, it has to be recognised that Ukraine has managed to carry out free and fair elections over the past five years. Particularly, the 2010 presidential election was recognised to have met most OSCE and Council of Europe requirements. See: OSCE/ODIHR 2010.

2 For the debate on whether the EU can replicate the success of enlargement regarding Central and Eastern Europe with the ENP countries without offering the prospect of membership, but by using the same tools see, for instance, Kelley 2006; Emerson et al. 2005; Smith 2005; Lynch 2003.

and civil society structures too weak, thus making domestic pressure for adaptation insignificant. Given these conditions, what potential does the EU have to 'transform' and 'Europeanise'[3] its Eastern neighbours, particularly Ukraine, given the experience of the ENP so far? Has this interplay of the EU's policy on the one hand and various actors and processes in Ukraine on the other hand made any difference to the developments in the country? Has the EU been learning from its experience of dealing with the ENP partners in the course of the past years? These are some of the questions, which this paper attempts to answer.

This paper argues that although the EU has had a limited impact on Ukraine since the ENP was introduced in 2005[4], this impact varied depending on the domestic actors and structures. It looks at three levels of actors: political elites, civil society, and civil servants or bureaucracy. In view of the weak conditionality, the paper assumes that the EU has had no impact on the political elites and, therefore, the overall reform process; yet, given the EU's institutionalised and bureaucratised way of policy-making, as well as socialisation channels, it has triggered the process of incremental integration, with civil society and bureaucracy having become the key 'agents' of this integration. Nevertheless, this study assumes that this incremental integration has limited potential to trigger the genuine reform process. Moreover, it is constantly challenged by Russia's influence, one that hampers Ukraine's Europeanisation.

Each of the first three chapters of the paper dealing with the three levels of actors looks at the instruments the ENP has offered to tackle or engage with relevant actors. The chapters then proceed to show the response of these domestic actors to the EU's policies within the specific Ukrainian context and conclude by outlining the learning process (evolution of policy) on the part of the EU and formulating recommendations for the further improvement of the EU policies. The final chapter of the paper looks at Russia as an intervening variable in the EU's efforts to support the reform process in Ukraine.

3 'Europeanization' is understood here in a rather narrow sense as domestic adaptation of EU demands resulting from incentives, pressure, capacity building, financial assistance and other instruments. This definition is proposed by Gawrich et al. specifically for the analysis of the EU's neigbourhood (Gawrich et al. 2009: 11). This understanding of Europeanization fells short of looking at whether EU norms and values become 'internalised' or 'domesticated' (Olsen 2002; Schimmelfennig/Sedelmeier 2005 understand Europeanization in these terms when dealing with EU accession countries). This approach is justified given that the paper deals with rather recent developments.

4 The launch of the EU-Ukraine Action Plan in February 2005 is understood as the starting point for the ENP implementation in Ukraine.

I Conditionality and the incentive structure: do long-term incentives match short-term thinking?

Conditionality is often perceived as one of the most powerful instruments of the EU vis-à-vis its partner countries. It was particularly strong in the case of the Central and East European accession countries for which the incentive of membership was strong enough to downplay the costs related with domestic reforms. While the timing of the accession process and the issue areas where conditionality was strongest are debatable[5], there is a general agreement that conditionality did work. The situation with the ENP countries seems to be rather different and several scholars have tried to conceptualise this. Schimmelfennig/Scholtz (2007: 26), for instance, classify the ENP as 'a low-credibility association policy' and argue that because the policy excludes the membership perspective, it is doomed to fail. Delcour (2007: 146) argues that the case of Ukraine demonstrates that the ENP implementation in Ukraine took the shape of 'accommodated conditionality', whereby Ukraine has accommodated the ENP to its own preferences and built its own interpretation of the EU requirements. Sasse (2008) offers the concept of 'conditionality-light'. Since conditionality in the ENP is so vague, it only provides external reference points for domestic political actors (both pro-EU and anti-EU), which they can utilize in domestic politics, as well as offer a loose framework for socialization. Overall, there is no agreement on how far the EU has been able to make a difference in the ENP countries and what further potential the EU's policy possesses.

Conditionality in the EU's policy towards Ukraine so far

What kind of conditionality has the EU offered to the ENP countries and to Ukraine in particularly? The analysis of conditionality in the ENP and its impact is complicated by the fact that we are dealing with a policy in the making and, as such, a moving target. Yet, by taking a closer look at the policy instruments currently offered by the EU to Ukraine and those that are still being negotiated, we can identify two potentially strong and appealing incentives. These are the incentives of a deep and comprehensive free trade area (FTA) and visa free travel.

None of the incentives was present in the ENP from the beginning. For instance, the EU-Ukraine Action Plan, which was adopted by the Council of the EU in December 2004, did not mention them. Yet, both incentives appeared in the EU-Ukraine Action Plan signed by the parties in February 2005. The new version of the Action Plan, reinforced by additional measures following the Orange Revolution,[6] contained elements of conditionality. Thus, Ukraine was offered to start negotiations on the new 'enhanced' agreement, namely the new contractual framework of the EU-Ukraine relationship that would replace the Partnership and the Cooperation Agreement (PCA), provided that Ukraine conducted free and fair parliamentary elections in March 2006. As the elections were recognised by the EU as free and fair, the parties started negotiations on the new agreement in February 2007. The new version of the Action Plan also contained the prospect of a free trade area between the EU and Ukraine. The start of the negotiations on this aspect was conditioned upon Ukraine's accession to the World Trade Organization (WTO). As Ukraine met all the WTO accession criteria[7], the respective negotiations were opened in February 2008. Ultimately it was decided that the free trade provisions would be a substantial part of the new framework agreement and that it will be 'deep and comprehensive' (UEPLAC 2009). The offers of the new framework agreement and the FTA were reinforced as the EU-Ukraine Summit in September 2008 decided that the new agreement containing the deep and comprehensive FTA provisions would be called an Association Agreement (AA). The negotiations are underway and expected to be completed in 2010-2011.[8]

The prospect of visa free travel also appeared in the new version of the EU-Ukraine Action Plan, along with the less 'attractive'[9] offers of opening the Community Programmes and Agencies for Ukraine's participation and the inclusion of the country into the Technical Assistance and Information Exchange instrument (TAIEX) and Twinning programmes of the EU. This offer was reinforced as the EU-Ukraine visa

5 See, for instance, the overview article by Haughton 2007.

6 The so-called 10-point plan by Javier Solana and Benita Ferrero-Waldner, which was released in January 2005 as a reaction to the Orange Revolution in Ukraine and the ultimate election of the President based on the free and fair voting, was included into the new version of the EU-Ukraine Action Plan.

7 Ukraine formally joined the WTO in May 2008.

8 Due to the expectedly lengthy ratification process of the AA (including by all the EU member states), it is expected that the Interim Agreement covering the Community aspects of the AA will come into force much earlier.

9 Less 'attractive' in the sense that it is more difficult to 'sell' these offers to the political elites and the society.

facilitation agreement[10] came into force as of 2008. The agreement, a legally binding document, contains provisions that simplify the procedures for issuing visas for certain categories of citizens and sets the prospect of visa free travel in the long-term. The offer was further reinforced as the parties started the so-called visa dialogue and later on the EU decided to move the dialogue 'into an operational phase'[11]. This means that the EU and Ukraine will now jointly draw up an Action Plan outlining the reforms Ukraine has to undertake in order to move towards visa free travel (Council of the European Union 2010). It is expected that the Action Plan will be signed during the EU-Ukraine Summit in November 2010. This recent development is rather revolutionary given that until recently the EU avoided any commitments beyond the formula of the vague and long-term prospect of visa free travel. Nevertheless it is not clear whether the level of commitment under the Action Plan will be the same as that under the visa free roadmaps offered by the EU to the Western Balkan countries. The latter directly resulted (given that a partner country meets the relevant reform objectives) in visa free travel.[12] The reference to the Western Balkans is important given that Ukraine perceives the forthcoming action plan as the ENP version of the visa free roadmap.

Theoretically, the incentives of a deep and comprehensive FTA and visa free travel can be regarded as attractive. Besides liberalizing the Ukrainian market, which will be of immediate benefit to the consumers and will also stimulate a higher-added-value production (as opposed to raw materials on which the Ukrainian economy is largely based), the FTA is expected to result in more widespread socio-economic benefits. These benefits include greater employment opportunities in some sectors of economy, better safety standards at work, modernized and developed infrastructure, as well as many other benefits (UEPLAC 2009). The same study also estimated that the trade flow between the EU and Ukraine would double and that the improved institutions and better governance resulting from the implementation of the AA would add 20-30% to Gross Domestic Product (GDP) in the long term (UEPLAC 2009: 13). The attractiveness of visa free travel needs less elaboration, since it is evident to anyone in Ukraine who has had the experience of going through the complicated and time-consuming visa procedures. Yet, this incentive will not be credible until the visa free action plan between the EU and Ukraine explicitly leading to lifting visa requirements is concluded.

Apart from being attractive in the long-term perspective, both incentives are also conditional. They can be achieved only if Ukraine undertakes the necessary reforms. Therefore, the FTA will become reality in 10 to 15 years and can only be achieved if Ukraine complies with the provisions of the AA, which will include the liberalisation of the Ukrainian market and regulatory convergence with the EU via the incorporation of a specified list of the EU *acquis* into the national legislation.[13] Moreover, the decisions reached by the joint institutions within the AA will be legally binding unlike under the current PCA where the decisions are for voluntary implementation. This will reinforce the EU conditionality in the agreement. With regards to visa free travel, Ukraine will have to carry out reforms to be specified in the forthcoming action plan. The reforms have to do with the security of documents and integrated border management among other issues and are well known from the experience of the Western Balkan countries' visa free roadmaps.[14] Whether those incentives are attractive in reality and whether they can stimulate certain reforms depends on the perception of them in Ukraine, particularly among the political elites and the society, as explored below.

Ukraine's response: no compliance, yet some resonance and elements of the 'discursive adoption'

From the perspective of Ukrainian political elites and the society at large, the problem with this type of conditionality is that the incentives are too distant and vague. Given the specific Ukrainian context, the nature of the political elites, and societal perceptions, the political elites do not see the specific benefits from these incentives for themselves and it is also difficult for them to instrumentalise them as a part of the domestic political struggle. This part of the chapter attempts to explain why this is so.

Unlike the CEECs, where the society and the political elites shared a strong desire of 'breaking

10 The full title is: Agreement on Facilitation of the Issuance of Visas between Ukraine and the EU.

11 The EU Council of Ministers of Justice and Home Affairs, which took place in Luxembourg on 3 June 2010, took the decision.

12 Thus, visa free travel to the EU was launched in December 2009 for Macedonia, Montenegro, and Serbia, which successfully implemented their roadmaps.

13 The trade and trade related *acquis communautaire,* as well as separately negotiated parts of the *acquis communautaire* within sectoral cooperation.

14 A good overview of the relevant reforms is available at the web page of the European Stability Initiative http://www.esiweb.org/index.php?lang=en&id=371.

with the Communist past' and 'returning to Europe', Ukraine lacks the same notions (Solonenko 2007: 36-41). Therefore, after Ukraine gained independence it pursued a policy of partial reforms (Hellman 1998). The strong presidency in Ukraine, especially during the second term of president Kuchma (1999-2004) led to the establishment of a 'patrimonial' system[15] and the seizure of the state by ruling clans (Van Zon 2001) or business-administrative groups, also known as oligarchs. Trade in cheap natural resources (mostly metal), re-export of cheap energy resources from Russia and Turkmenistan, unfair privatisation deals, and state subsidization of some sectors, such as agriculture and the gas and coal industry where all means of accumulating wealth for the newly established entrepreneurs (often former Soviet nomenclature leaders). In exchange for supporting the consolidation of the semi-authoritarian regime under Kuchma, they enjoyed access to the sources of political power and managed to acquire monopolistic authority over the economic wealth of the country (Puglisi 2007). After the Orange Revolution and to a large extent due to the revised Constitution of December 2004[16], the powers of the president were weakened and multiple centres of authority emerged. The business-administrative groups adjusted themselves to the new and more competitive conditions and managed to build strong links with all successful parties in the wake of the 2006 parliamentary elections. Under these circumstances, in order to understand what drives the rhetoric and behaviour of the political elites in Ukraine it is helpful to look at the interests of business-administrative groups behind them. Access to political power, and unequal rules of the game protected by a fair judiciary, is still perceived as the best guarantee for securing and protecting one's economic interests. Given the overwhelming majority of legal initiative is exercised by members of the parliament, and not the government, one can be sure that the decision-making in the country is highly influenced by narrow particularistic interests and a non-transparent lobbying.

Within such a system, political elites pursue two types of interests: gaining short-term economic benefits for themselves and for multiple party sponsors and being (re-) elected as the best guarantee for protecting their own economic interests. While principally in favour of European integration, political elites and business interests behind them have little understanding of what integration with the EU (more specifically the FTA) will bring to them (Puglisi 2007; Popescu/Wilson 2009). While they attempt to influence the negotiation process of the AA[17] where, for instance, import tariffs are concerned, this influence is limited to the short-term losses they might incur, rather than trying to shape the long-term economic relationship between Ukraine and the EU.

Contrary to the vague and long-term benefits the EU offers, there are more immediate benefits that are offered by non-transparent business opportunities, with the energy sector being the most vivid example. At the same time, complying with EU requirements will bring substantial short-term costs, as a result of the increased competition and transparency. Complying with EU requirements means opening up the market for competition with EU products and services and losing rent from protectionist regulations. It also entails introducing transparency and losing profit from non-transparent economic schemes protected by political actors. From this perspective it is easy to understand why Ukraine has difficulties in complying with the requirements of the energy declaration it signed with the EU in Brussels in March 2009.[18] The declaration is aimed at reforming and modernising Ukraine's gas transit system, in particular via separating gas transit to the EU from its distribution inside Ukraine and introducing transparency to the energy system and market. So far Ukraine has failed to follow up on these requirements, which speaks for the strong resistance inside the country to the reforms bringing Ukraine closer to the EU. It appears more beneficial to the political elites to preserve the status quo rather than to introduce the reforms for the sake of the long-term benefits for the country and its society.

The situation is further complicated by the fact that the society in Ukraine remains ambivalent about the direction Ukraine should move in[19] and,

15 Wallander (2007) uses this term with respect to Russia. However, it can easily be applied to Ukraine under Kuchma, with the difference that the Ukrainian version of the system was weaker and patchy, i.e not covering the whole of the society, political life and economy. Many elements of this system are still present today with industrial-economic interests heavily involved in political life.

16 The Constitution was revised as art of the intra-elite compromise. It paved the way for the re-run of the second round of the presidential elections, which had initially brought people to the streets.

17 Two interviews in Kyiv with a representative of the EU and a representative of the Ukrainian government in September 2009 confirmed this.

18 On 23 March 2009, the EU hosted an investment conference in Brussels where it was agreed to grant Ukraine a 2.5 billion Euros loan for the rehabilitation of its gas transit system. Moreover, a Joint EU-Ukraine Declaration was signed, wherein Ukraine committed itself to undertake reforms in the energy sector.

19 Not meaning in geographical terms, but rather in terms of the civilizational choice between the European system of values (which is translated into the model of governance) and any other alternative.

therefore, the European integration issues can hardly be instrumentalised by the political elites to win scores in the domestic political struggle. Anything European is undeniably perceived as being of good quality, but too far and distant to be necessarily relevant for Ukraine in practical terms. One can see numerous advertisements in Ukraine offering 'European quality' (meaning high quality) services and goods, yet, people hardly perceive themselves to be European.[20] Moreover the situation has deteriorated over the past five years due to the disillusionment about the prospect of Europeanization both related to the failure of the political elites to carry out reforms, and the enlargement 'fatigue' in the EU. When asked whether integration with the EU could become a national idea that would unite all the regions of Ukraine, 47% of respondents in Western Ukraine answered 'Yes', with only 23,5 % of respondents from Southern Ukraine having agreed. At the same time 57,3% of respondents from Southern Ukraine answered 'No', with 40,7% of respondents from Central Ukraine and 42,5% from Eastern Ukraine being of the same opinion (Razumkov Centre 2008: 38, 46). When offered several foreign policy options and asked to choose one priority option, only 27,5% on the national scale chose 'relationship with EU member states', while 51,1% prefer 'relationship with Russia' (Razumkov Centre 2008: 41-43). This was the case in 2008, whereas almost 40% preferred the EU in the spring of 2005 when the memories of the Orange Revolution were fresh and the EU was high on the agenda. Given this public opinion it makes no sense for political elites to campaign on EU-related issues. This was well demonstrated by the 2010 presidential campaign when the EU-related issues (unlike Russia-related) were hardly on the agenda.

Nevertheless, the EU has not been completely absent from the Ukrainian political scene. The Ukrainian political elites seek legitimacy and belonging to the club of European political leaders. During 2005-2009, both the Prime Minister Yulia Tymoshenko and the President Viktor Yushchenko as leaders of their respective political parties participated in the summits of the European People's Party where their parties have an observer status. Both leaders, as well as the oppositional leader of the time, Viktor Yanukovych, appealed to the EU for mediation when the political crises broke out in the spring of 2007. Both Tymoshenko and Yushchenko were in Brussels in March 2009 to sign a declaration with the EU on the modernisation of the Ukrainian gas transit network. Finally, Viktor Yanukovych, as the newly elected President in 2010, made his first foreign trip to Brussels. Moreover, there seems to be a lower-denominator consensus among the Ukrainian political elites that European integration is good. This is because so far it has been possible to preserve good relationship with the EU and even pursue integration without incurring the costs of reforms. Indeed, although the reforms have not been implemented, non-compliance has not endangered relationship with the EU. Thus, as Wolczuk (2009: 199) put it, Ukrainian political elites have disagreed on 'everything but Europe'. This EU-related consensus creates a good basis for promoting relevant issues in public discourse.

The elites have also attempted to instrumentalise EU-related issues in their desire to win popular support, although, as pointed above, the society is ambivalent about the issue. For instance, several months before the EU-Ukraine annual summit that took place in Paris under the French Presidency in September 2008, President Yushchenko repeatedly stressed that Ukraine would be offered an 'associated membership' in the EU. The summit decided that the new enhanced agreement the EU and Ukraine were negotiating would be called Association Agreement. Yet, the President was seeking to appear to the voters as the leader of the country, which the EU was ready to accept into the club. From this perspective the notion of 'associated membership', although non-existent in reality, was rather convenient for popular discourse. Another example had to do with the presidential elections, which took place in February 2010.[21] For the past few months before the annual meeting of the EU-Ukraine Cooperation Council in December 2009 both the President and the Prime Minister lamented that Ukraine would sign the Association Agreement with the EU by the end of 2009, despite the fact that the provisions of the agreement, especially the free trade provisions, still required many more rounds of negotiations. The most recent example includes that of President Yanukovych promising visa free travel with the EU before the end of 2010[22], despite the fact that by that time Ukraine was not even offered the visa free action plan mentioned above. In contrast with these examples, the representatives of the Office of the President Yushchenko along with other officials suggested several times that Ukraine should introduce visa requirements for EU citizens in order to restore the symmetry, which was distorted when Ukraine unilaterally lifted visa requirements

20 Only 30 per cent of Ukrainians perceive themselves to be European (Razumkov Centre 2008: 40).

21 The first round took place on 17 January, while the second round took place on 7 February 2010.

22 Several news agencies reported President Yanukovych saying this on the occasion of the border guards day on 26 May 2010. See, for instance, http://www.pravda.com.ua/news/2010/05/26/5077485/ and http://ua.for-ua.com/comments/2010/05/31/122401.html.

for EU citizens in 2005. This has to do with the fact that the topic of Ukrainians queuing for Schengen visas and encountering numerous obstacles in the consulates of the EU member states is very popular in the Ukrainian media. Despite the fact that Ukraine's negotiating position in its aspiration to move towards a visa-free regime with the EU would be seriously undermined by such a step, making moves that would be appealing to the voters often seems to be a more immediate priority. Whether this rhetoric contributes to gaining more voters' support is questionable, nevertheless the political elites do find it useful to resort to such rhetoric.

The examples above confirm that although the EU hardly makes a difference where the reform process in the country is concerned, it has become a reference point for the political elites. On the one hand, the EU is perceived as a prestigious club of political leaders where the Ukrainian political elites want to be involved; on the other hand, a certain EU-related agenda is instrumentalised as a part of the domestic political struggle. Moreover, reference to the traditional European values such as freedom of expression, rule of law, respect for human rights and division of powers between the state institutions have become rather frequent in the rhetoric of the political elites. This does not mean that European norms are implemented in practice in Ukraine, but they are undeniably perceived as legitimate and suitable for the country. From this perspective it is also possible to argue that a certain amount of social learning or 'discursive adoption' (Schimmelfennig/ Sedelmeier 2005: 20) of European norms has taken place in Ukraine. From both rational choice and social learning perspectives, formal and behavioural adoption might be expected to follow (Schimmelfennig 2000: 118-119; Schimmelfennig/ Sedelmeier 2005: 20).[23]

The learning process on the part of the EU and what can still be improved

Departing from these dynamics one can think of several ways for the EU to strengthen its leverage in Ukraine. Introducing conditionality with short-term incentives and clear thresholds might be a way out. The experience of accession countries indicated that thresholds matter. Thus, for instance, Haughton (2007: 235) showed that the EU's transformative power was the strongest "during the decision phase of whether or not to open accession negotiations". This argument can be extended by arguing that the EU's transformative power was the strongest during the decision phase of whether to move to the subsequent stage of the accession process. Whereas in the case of the 2004 entrants there was only one clearly defined threshold, which separated different stages of the accession process (pre-negotiation phase and negotiation phase), in the case of Bulgaria and Romania another threshold appeared – that of the possibility of applying the postponement clause. Evidence suggests that during the period of deciding whether to invite Romania and Bulgaria to join the EU in 2007 (that is not evoking the postponement clause), some reforms were accelerated (Noutcheva/Bechev 2008). The EU thus succeeded in promoting reforms by defining thresholds, which separate different stages of the accession process, and by linking the admission to each subsequent stage to the necessity of meeting specific conditions. Interestingly enough, in the case of the Western Balkans and Turkey the European Commission introduced benchmarks for the closing and opening of chapters in the process of accession negotiations, which was not the case for the CEECs (European Commission 2006a: 6).

With this experience and the short-term thinking of the Ukrainian political elites in mind, the introduction of short-term incentives that could be communicated to the public and linked to very specific reform requirements might stimulate political elites to comply. These requirements preferably have to be included in the bilaterally agreed documents, which are legally or politically binding. More importantly, these specific reform requirements, to which the Ukrainian government would have committed itself, would serve as reference points for the civil society advocacy activities in Ukraine. In other words, it is not about introducing new long-term incentives, but rather about structuring the way towards the longer-term incentives. For instance, as it was mentioned, the deep and comprehensive FTA is a long-term objective that could be achieved within the time frame of 10 to 15 years. However, one could probably think of intermediate short-term and medium-term objectives, which, in exchange for meeting specific EU criteria, would bring about tangible benefits either for certain economic circles, who have a strong lobby in the parliament, or for consumers, whose voting preferences might be influenced by the EU-related agenda.

To conclude, one has to state that the EU has learned from experience and has improved its approach in terms of moving towards a more specific formulation of immediate objectives. A positive step in this direction was the so-called 'Füle matrix' – a matrix of reforms handed in to the Ukrainian government by the Commissioner Stefan Füle during his visit to Ukraine in April 2010. The 6-page

23 From a rational perspective, political actors that have rhetorically committed themselves to certain norms risk loosing their credibility and, as the result, their legitimacy if they act against those norms (Schimmelfennig 2000: 118-119). From a social learning perspective, the internalisation of norms logically follows discursive adoption (Schimmelfennig and Sedelmeier 2005:20).

matrix lists the priority reform steps in seven areas[24] expected from Ukraine. Importantly, it differentiates among the short-term (6 months), medium term (6-18 months) and long-term (more than 18 months) objectives and indicates both the EU's support and the EU's responses to the implementation of any given step.[25] This was the first time that the EU offered to Ukraine a document with clear reform priorities and benchmarks with clear rewards to follow once reforms are implemented. Although it has no official status and was not agreed bilaterally, it already sends a clear signal to the Ukrainian political elites and the society as to the EU's expectations.

The budgetary support in the framework of the European Neighbourhood and Partnership Instrument (ENPI), which is a new external assistance exercise for Ukraine, is another good example. Ukraine is eligible for 82 million Euros to support the implementation of its energy strategy. While the initial first tranche of 23 million Euros was given to Ukraine without any reform-related conditions[26], the second tranche is already conditioned upon the fulfilment of certain objectives. They include, for instance, the development and implementation of specific legislation, but also objectives such as not increasing the quasi-fiscal deficit in the energy sector or starting the construction of a pilot international gas metering station at one of the entry points into the gas transit system of Ukraine (Tessier-Stall et al. 2009: 74-75). It remains to be seen whether Ukraine will be able to deliver on these issues in its anticipation of the receipt of the second tranche.

Another positive development is that the EU has started to actively communicate the benefits of the rapprochement to the ordinary Ukrainians. The press statement, distributed by the EU Delegation to Ukraine the day after the inauguration of the new President elected in 2010, elaborated on specific benefits Ukraine will attain from concluding the deep and comprehensive free trade area with the EU.[27] Although still vague, this press statement has marked the first attempt to communicate the benefits of integration with the EU in a simple and clear manner to the different audiences in the country whilst concentrating on the impact integration would have on these audiences. More messages of the kind need to be communicated to the Ukrainian society, since making it more aware of the benefits of Europeanisation and, as the result, more demanding where relevant domestic policies are concerned, will increase the costs of no reforms for the Ukrainian political elites.

24 Those include political reforms, macro-financial stability, trade and business environment, mobility, energy sector, environment, and civil aviation.

25 This matrix was never made public but handed in via diplomatic channels. Yet, the matrix leaked to the Ukrainian expert community and media (Sydorenko 2010: 1); many believe it was a deliberate step on the part of the EU in order to increase the pressure on the government from within the country.

26 The only conditions were to establish a Joint Monitoring Group to oversee the fulfillment of the implementation and the adoption of the Law on State Budget 2009 as well as the necessary financial regulations for the receipt of the budgetary support (Tessier-Stall et. al 2009: 45).

27 See http://ec.europa.eu/delegations/ukraine/press_corner/all_news/news/2010/20100226_01_en.htm .

II Stimulating the pressure from within: empowering reform-minded constituencies and structures in Ukraine

According to our framework for the analysis, a strong demand and pressure for reforms from within is an important prerequisite for the EU to make a difference in a given country. If the power holders are veto-players, the EU's conditionality changes the domestic opportunity structure in favour of pro-European domestic actors outside of the power structures (Schimmelfennig/Sedelmeier 2005: 11-12). This was the case with the EU accession countries, where, according to Vachudova (2005: 139-179) the EU helped to change the institutional environment in three ways: it stimulated the consolidation of reform-minded actors, it offered information (along with other external actors) that helped the oppositional actors make their agenda compatible with EU requirements, and finally, the EU offered immediate rewards for political actors that secured the implementation of the relevant agenda after they were elected. This was the case in Slovakia in 1998 when Vladimir Mečiar lost to Mikuláš Dzurinda, an event that changed the pace of the country's integration with the EU. The Romanian elections in 1996 and the Bulgarian elections in 1997 are also sometimes given as examples of the impact of the EU's leverage.[28] Thus, the domestic reform-minded actors both from oppositional political parties and the civil society served as interlocutors between the EU and the broader society (electorate), and the society started to associate the rapid transformation of their country towards the EU with these actors (Vachudova 2005: 162).

The situation of the EU-Ukraine relationship is somewhat different for two reasons. Firstly, the incentive structure is rather weak, as shown in the previous chapter, which makes it difficult to mobilize society against the current power holders. This might partially have to do with the fact that there is no prospect of membership, while the incentives available to Ukraine, such as the deep and comprehensive FTA and the visa-free regime are not appealing enough to mobilise the electorate and society at large. Moreover, the absence of competition with other countries of the region on their way towards the EU reduces the pressure for reforms. In the case of the CEECs, competition among the countries played an important role. Notably, the case of Slovakia is often highlighted as an example of the only country among the other eight aspirants for EU membership from Central and Eastern Europe that was refused the opening of accession negotiations in 1997 on political, not economic grounds.[29] Being a laggard in a group of relatively similar countries definitely stimulated the change of elites in Slovakia. This regional environment is missing in the case of Ukraine, whereby the countries of the region – covered by the Eastern Partnership (EaP) – are too different in terms of both their aspirations with respect to the EU and their domestic developments. Moreover, Ukraine is already the frontrunner in terms of its relationship with the EU and sets an example for other countries of the region.

Secondly, there are no strong oppositional actors in Ukraine whose power base lies outside the oligarchy structures and could therefore challenge the current system based on rent-seeking. As the 2010 presidential election in Ukraine has shown, political contestation, although challenging the system rhetorically, predominantly took place among the candidates who are part of the system. The ideological underpinnings are largely missing in Ukrainian politics and political competition is limited; Wilson (2006) calls this the "virtual politics". Given this nature of Ukrainian politics, it is clear that the EU has no partners among the political-spectrum actors on whom it could rely in terms of bringing about a change in the regime. In this situation, reform-minded actors can only be found within civil society, especially within the non-governmental organizations sector. When the EU promotes the same requirements, which civil society supports and advocates for[30], the chance of reforms taking place increases. In this respect, the commitments the Ukrainian government has made in the course of its relationship with the EU serve as an important reference point for the EU and civil society actors in Ukraine to combine efforts in demanding compliance and advocating for reforms.

28 Vachudova (2005) , for instance, argues that the EU's 'active leverage' led indirectly to the defeat of illiberal elites in Romania, Bulgaria and Slovakia in 1996, 1997 and 1998 respectively.

29 The other countries of the so-called 'second wave' – Lithuania, Latvia, Bulgaria, Romania – were refused on economic grounds.

30 Jacoby (2006), for instance, argues in his review of several studies with extensive empirical data that external influences tend to be successful if they operate in tandem with domestic actors and interests. Other scholars support the opinion that the external actors have better chances of having an impact on the domestic reform process if they operate 'in coalition' with domestic actors and structures that share the same interests and goals (Schimmelfennig/Sedelmeier 2005; Carothers 2004).

EU support for strengthening the role of civil society in Ukraine so far

To what extent have certain EU policies contributed to strengthening the voice and actual impact of the civil society in Ukraine? An important starting point is that the EU's involvement with actors outside of the power structures in Ukraine has so far been limited. In effect, the EU has never pursued the objective of creating pressure for reforms from within. Neither has the EU adapted to the assumption that the governments in partner countries in this part of the world (former Soviet Union) are veto players and as such hardly contribute to achieving reform objectives, which the EU attempts to promote. Most of the EU's efforts, diplomatic, human and financial, are directed at governments, while the EU's potential allies, civil society organizations, although interested in reforms, remain rather weak. A study carried out by the Open Society Institute Brussels showed that during 2007-2009 only 0,37 percent of EU funding directed at Ukraine supported the efforts of civil society organizations.[31]

Nevertheless, the EU has increasingly attempted to involve civil society organizations in the reform process, particularly since the ENP was launched. Firstly, the EU has opened up various socialization channels with the civil society in the EU. This is less true where the European Commission's activities are concerned, but more so in the combined efforts of both the European Commission and the Member States. The European Commission itself has offered limited opportunities for cooperation between Ukrainian and the EU-based civil society. There are many examples of this. The Institution Building Partnership Programme implemented within the Technical Assistance to the Commonwealth of Independent States (TACIS) programme supported 57 international partnership projects with Ukrainian representatives participation during 2002-2008[32]. Ukrainian non-governmental organizations (NGOs) can partially implement projects with their EU-based counterparts through the European Instrument for Democracy and Human Rights (EIDHR). Cross-border cooperation programmes cover cooperation in western regions of Ukraine. The Youth in Action Programme offers opportunities for civil society activists from the EU and Ukraine to cooperate. In addition to that, the EU member states provide numerous opportunities, which often involve grants to NGOs from their countries in order to implement joint projects with NGOs from Ukraine and other countries. The four Visegrad countries, the Baltic states, Germany (via political foundations), and the United Kingdom are among the most active donors in this respect (Solonenko/Jarabik 2008: 92-95), with Sweden, Netherlands and Denmark offering important support as well (Shapovalova 2010: 4).

Secondly, the EU has provided limited support in the form of grants to Ukrainian NGOs. Again, only the EIDHR, which has country-based schemes to support NGO projects at the national level, and Cross-border cooperation programmes, offer such opportunities on top of the limited budget available at the Delegation of the European Union to Ukraine directly. The above-mentioned EU member states also offer limited grant assistance (Solonenko/Jarabik 2008: 92-95). Additionally, some civil society initiatives are funded through the Joint Framework Programmes of the European Commission and the Council of Europe, where the latter implements projects with the European Commission's funding. The total amount of funding to NGOs is, however, rather limited, as indicated above.

Thirdly, the EU has increasingly involved Ukrainian NGOs in the consultation process over various issues. Thus, the Delegation of the European Union to Ukraine created an online register on its web page, where Ukrainian NGOs can register in order to be invited for consultations on an ad hoc basis whenever the opportunity arises.[33] The Delegation already consulted the NGOs on the draft of the ENPI National Indicative Programme 2011-2013 for Ukraine, which was a part of the Ukrainian Country Strategy Paper mid-term review in the spring of 2009. The NGOs were invited by the Delegation to discuss the progress Ukraine had made in 2007 and 2008 in order to contribute to shaping the European Commission's Progress Reports on Ukraine published in April 2008 and April 2009. In fact, inviting NGOs from the ENP countries to contribute to the European Commission's annual progress reports has almost become a tradition, which is a welcome development.

The launch of the EaP in May 2009 has enhanced opportunities for civil society organizations to become involved in shaping the EU's relationship with its neighbouring countries. Thus, the EaP Civil Society Forum, whose first meeting took place in November 2009 with the participation of NGO and think-tank representatives from all the partner countries and the EU, served as an important opportunity for civil society leaders from the EaP region to exchange information about the reform

31 The average figure for the six Eastern Partnership countries is 2,5 percent. The Study is forthcoming and will be available at http://www.soros.org/initiatives/brussels.

32 See IBPP web-site for further information: http://www.ibpp.org.ua.

33 See http://ec.europa.eu/delegations/ukraine/eu_ukraine/civil_society_dialogue/index_en.htm.

needs of their countries and the EU's role in the process, and to develop recommendations for the first EaP ministerial meeting that took place in December 2009.[34] More importantly, the very launch of the EaP Civil Society Forum as an institution marks the recognition of the role of civil society as an actor in shaping the EaP countries relations with the EU and offers a formal channel for presenting policy ideas and proposals. Both the Ukrainian authorities and the European Commission made it explicit that civil society participation in the development of the EaP and specific projects within the initiative are highly welcome.

The efforts outlined above seem to be significant, when compared to the period before the EU's eastward enlargement and the launch of the ENP. Yet, these efforts are meager in the context of the EU's overall cooperation with Ukraine where power structures dominate and given the weakness of the civil society in Ukraine.

The response of the Ukrainian civil society

In view of the activities above, the EU's impact on strengthening civil society as an actor in the reform process has been mixed. On the one hand, the very form of the EU-Ukraine relationship, which lacks a strong incentive structure, has not been conducive to mobilising reform-minded parts of the society against rent-seeking and non-accountable elites. Neither has the EU been able to tackle the structural weaknesses of civil society in Ukraine, which include limited impact (both in terms of influencing policy and influencing public opinion) and dependence on foreign funding among other deficiencies. On the other hand, the EU has created a new dimension and new reference points for civil society activities, and offered new tools that civil society organizations might use to push for a domestic reform agenda. In many ways, the Ukrainian civil society still has to get exposed to this new dimension, as well as still having to learn how to use the tools. Yet, the instruments are there, they can be improved, and it is in many ways the Ukrainian civil society's homework to capture the opportunities.

First of all, through its activities, the EU has targeted only a limited circle of civil society organisations. The EU has reached the most active and vibrant niches of civil society, who are also the most professional, yet this segment is rather small. However, the EU has so far failed or has not tried to address the problem of involving broader segments of civil society in the EU-related agenda, such as, for instance, trade unions and civil society platforms working on environment, the disabled, and other themes. Thus, the vast majority of vibrant and diverse civil society organizations in Ukraine[35] have so far remained ignorant about Ukraine's EU-related agenda and as such have not been able to instrumentalise the EU requirements and policy instruments in their advocacy and public opinion activities in the country. The same concerns political parties and their youth organizations. Although political parties might not be regarded as part of the civil society[36], exposing them to the EU is very important as exemplified by the experience of the EU accession countries. Pridham (2005), for instance, shows that transnational party linkages had an important democratising influence on the CEECs' political parties.

Secondly, the EU has not contributed to solving the structural problems of civil society in Ukraine. One aspect has to do with underdeveloped regulatory environment, which even goes contrary to the Recommendations of the Committee of Ministers of the Council of Europe and the decision of the European Court of Human Rights.[37] Related to this is the lack of funding from the state budget to support civil society organisations or outsource some social services to them. Both have to do with a lack of recognition of civil society as a partner in public policy. Another aspect has to do with the

34 For more information on the EaP Civil Society Forum and its materials see http://ec.europa.eu/external_relations/eastern/civil_society/index_en.htm.

35 As of 2007, nearly 40,000 community organizations were registered in Ukraine, 19,000 professional unions and associations, 8,000 charitable foundations, 6,000 neighbourhood associations, and 5,500 consumer groups. However, experts have estimated that of this large number, only around 2,500 civil society organizations are socially active and independent (Bystrytsky 2008, cited in Solonenko et al. 2008: 17). A study commissioned by the European Commission in 2009 identified a number of NGO networks in Ukraine dealing with human rights, democratization, disabilities, environment, public policy and civic activism, regional development, HIV/AIDS, access to judiciary, consumer protection, media, and youth (The European Union's TACIS Programme for Ukraine 2009). These organizations and networks provide services, carry out advocacy activities, provide expertise, and work with public opinion.

36 For instance, Diamond (1999: 218-260) argues that civil society is different from political society, as civil society represents 'the whole of a person's or a community's interests', but not struggles for power (as political parties that belong to political society do).

37 See Recommendation of the Committee of Ministers of the Council of Europe on the legal status of non-governmental organizations in Europe ((№ CM/Rec(2007)14), http://www.coe.int/t/e/legal_affairs/legal_co-operation/Civil_society/ and the Decision of the European Court of Human Rights (Koretsky and others versus Ukraine 2008).

lack of impact on the reform process and public opinion on the part of civil society. Highly qualified think tanks have developed numerous proposals on how to reform the Constitution, the judicial system, the public administration and electoral system, just to mention a few vital reform areas. Moreover, the institutions of the Council of Europe like the Venice Commission and the Parliamentary Assembly of the Council of Europe promoted the same agenda. Despite this, there has been no political will to take recommendations on board and promote relevant reforms. Similarly, mass media, mostly controlled by particular business industrial groups, has rarely reported on civil society activities and messages, thus preserving the gap between civil society and the society at large.

Yet, the EU has managed to empower certain segments of the Ukrainian civil society, mostly concentrated within the professional circle of NGOs and think tanks. Thus, over the past few years several civil society initiatives dealing with specific issues of the EU-Ukraine relationship were developed. One example is the 'Europe Without Barriers' Initiative[38], which regularly carries out independent monitoring of visa issuance practices by the EU member states' consulates in Ukraine and has arguably managed to influence the implementation of the EU-Ukraine visa facilitation agreement. Other examples include the civil society's independent function of monitoring the implementation of the Association Agenda[39] and before that of the EU-Ukraine Action Plan[40]; the network of European Information Centres, based in the regional libraries and covering 22 regions of Ukraine[41], which carries out awareness-raising activities; European Space Portal, the consolidated civil society resource on European integration[42], as well as European Educational Portal[43] are worth mentioning among many other initiatives created and sustained exclusively by civil society organizations.

It is difficult to say whether the EU has empowered the above-mentioned civil society groups directly. Most probably not, if judging from the perspective that these groups have not been targeted by the EU grant schemes or any other direct forms of influence. Yet, the EU has contributed by simply being there and offering standards and values, which those civil society groups support and would like to have implemented in Ukraine. The EU has also contributed by having developed an intensive agenda for the EU-Ukraine relationship, where different civil society groups can find issues, which they can promote and work with. Finally, by having induced the Ukrainian government into taking specific reform commitments via the conditionality in the direct budgetary support, the Association Agenda, and the visa free action plan, the EU has offered an opportunity for civil society groups in Ukraine to use the EU as a reference point and simply work in partnership in order to demand compliance on the part of the government. For instance, the most recent monitoring report published by a consortium of think-tanks in Ukraine revealed that by July 2010 only 3 out of the existing 58 priorities of the AA for 2010 were implemented entirely, while 49 priorities were under the implementation process and 8 priorities not implemented at all.[44] This information might not have any direct impact on decision-making; yet having such impartial and critical opinion of the activities might create additional pressure on the government. Moreover, the openness of certain public authorities (below the level of the political elites who are linked to economic interests) to the EU-related agenda and cooperation with civil society has created a favourable environment for the EU's influence. More specifically, this has created entry points for NGOs and think tanks to be involved in shaping some decisions. Thus, the Civil Society Expert Council with the Ukrainian side of the EU-Ukraine Cooperation Committee (chaired by the Vice Prime Minister for European integration) was set up in the summer of 2008, comprising 31 experts. Council representatives have been invited by the Committee, the Ministry of Foreign Affairs, the Ministry of Justice and other central authorities to discuss various issues dealing with the EU-Ukraine relationship; civil society experts were also invited to contribute to drafting several governmental decisions in the field of European integration.

Thus, while the EU has not contributed to the civil society development and tackling the structural problems concerning civil society's lack of links with both the political elites and the broader public, it has contributed indirectly. As argued by Rommens (2008: 11), by making authorities committed to certain reform agenda and certain requirements, the EU has produced "second order effects", since it offered

38 See http://www.novisa.org.ua.

39 See http://es-ukraina.blogspot.com/ for materials of the consortium of Ukrainian think-tanks including the Ukrainian Centre for Independent Political Research, the Institute for Economic Research and Policy Consulting and the Centre for Political and Legal Reforms with support from the international NGO "Internews Ukraine" and the International Renaissance Foundation.

40 See Razumkov Centre 2007 for the details of the relevant project.

41 See http://eu.prostir.ua/initiatives/eurocentres.html.

42 See http://eu.prostir.ua.

43 See http://www.eu-edu.org.

44 For more details see http://es-ukraina.blogspot.com/2010/07/implementation-of-ukraines-eu-related_09.html.

additional reference points to non-governmental organisations, with the help of which NGOs can attempt to hold the governments accountable and demand compliance. The EU-related requirements open up enormous potential for the EU and the civil society organizations to create coalitions aimed at demanding compliance with reforms, to which the governments have themselves committed, yet this potential still needs to be realised.

How can the EU improve its civil society-related policy?

The EU can contribute in several significant ways to making civil society stronger in terms of influencing public policy and public opinion, as well as introducing an EU-related dimension into their domestic reform agenda. Above all, however, there is a conceptual problem, which the EU needs to tackle. The problem is that political elites in most EaP countries, including Ukraine, are not as much the EU's partners, since they are also veto players, who favour the status quo of no reforms. This is what makes the EaP countries different from the CEECs. Under the current incentive structure, reforms appear too costly for these elites, while the lack of reforms does not in any way endanger their relationship with the EU. The EU can make political elites more cooperative, as was proposed in the first chapter of this paper. Yet, the EU has to realize that reform-minded constituencies in these countries, mostly found within civil society, are the EU's true partners, into which the EU needs to invest. How can the EU support civil society in Ukraine?

Firstly, the EU has to push the Ukrainian authorities to involve civil society into the policy process in a transparent and inclusive way. It also has to demand that public authorities create a more favorable regulatory environment for civil society, enabling easier registration procedures and the reception of funds from domestic sources, including the state budget.[45] Secondly, the EU has to increase the number of opportunities for the direct funding of civil society organizations in Ukraine. Thirdly, the EU has to develop capacity-building programmes for civil society actors. Fourthly, the EU should increase the amount of socialisation channels. Overall, the EU can build on the experience it has developed with the accession countries. For instance, an instrument similar to the Civil Society Facility (the Instrument within the Instrument for Pre-accession Assistance (IPA) for the Western Balkans) could be offered to Ukraine along with other EaP countries as well. More importantly, the EU needs to create new reference points and tools for the civil society to be able to exercise pressure on the authorities. The EU could well build coalitions with domestic reform-minded actors in Ukraine around those reference points and issues in order to produce change. The visa free action plan, listing specific reform requirements, conditions for receiving the second tranche of the direct budgetary support to reform the energy sector, as well as the objectives of the AA were already mentioned in this paper. The 'Füle matrix' mentioned in the previous chapter of the paper is another good example: although an unofficial document, it leaked to the media and the Ukrainian expert community (many believe it was done deliberately by the EU's side) and in this way became another reference point. The EU could think of even more such reference points. In short, Ukrainian pro-reform constituencies can turn EU requirements into tools to exercise pressure on the authorities. The EU, in turn, needs to make sure that it does formulate such requirements in a specific and measurable way, and also backs up civil society efforts via the means of diplomatic and political dialogue.

45 Currently, Ukrainian civil society is almost exclusively dependent on international donors' funding.

III The role of institutional inertia: bureaucracy as an agent of change?

Departing from the framework for our analysis, bureaucracy might be another actor relevant in terms of tracing the EU's impact on the reform process in Ukraine. Both in the case of the EU accession countries and in the ENP, the EU has relied heavily on this class in promoting its norms and preparing the partner countries for deeper integration with the EU. For the EU, as a highly institutionalised community, the institutions and procedures have naturally played a strong role in its policies towards third countries. Accession countries often face the need to adjust their institutions accordingly in order to deal with the EU and to create new structures for this purpose. For instance, the accession countries had to create strong coordination mechanisms in the government to guide the pre-accession process, to change administrative-territorial systems so as to be eligible for structural funds after the accession, and to create fast-tracking mechanisms of adopting the *acquis*-related legislation in the parliaments, among many other adjustments. New institutions were created and the existing institutions adjusted for these countries to deal with the growing EU-related agenda, and more and more professionals were involved at all levels in the European integration business. All these activities were aimed at making the countries 'Europeanised' and preparing them to become fully integrated with the EU in view of the forthcoming accession. Moreover, given the rather technical nature of the process of integration with the EU, with the *acquis*-related requirements being in the centre of the process, bureaucracy at all levels was heavily involved.

Under the ENP Ukraine has experienced a similar process, yet, with one substantial difference. In the context of countries like Ukraine, where political leadership and political will for reforms are absent, the bureaucratic nature of the process where civil servants are the key agents is a positive, rather then a negative trend. Under the Ukrainian circumstances, the bureaucratised nature of the process of dealing with the EU has provided for the continuity of the process and at least some sort of implementation of EU requirements. Indeed, under the conditions of political instability and crises, which Ukraine experienced for the most part of the time since the Orange Revolution, this has made implementation at least partially immune against political turbulences (Wolczuk 2009: 207). Therefore, the bureaucratic class in charge of the European integration of Ukraine might be another important actor, along with civil society, which accounts for the domestic pressure to adopt the EU requirements.

The role of institutions and bureaucracy in the EU-Ukraine relationship

What role has the Ukrainian bureaucratic class played in the EU-Ukraine relationship under the ENP? Unlike the EU accession countries, where this process was oriented towards the goal of accession, in Ukraine the process has reflected the EU's growing attention and engagement in the country. The evolution of the EU's thinking in this respect is well reflected in the constant development of the ENP. This development can be traced through almost annual Communications of the European Commission upgrading the ENP, the most recent being the launch of the EaP Initiative. Thus, the already existing structures created under the PCA – the EU-Ukraine Cooperation Council, the EU-Ukraine Cooperation Committee, the Subcommittees and the Parliamentary Cooperation Committee have started dealing with newly evolving issues. For instance, the EU-Ukraine Action Plan adopted in February 2005 was to be monitored by the joint institutions created within the PCA. The Secretariat of the Cabinet of Ministers and several key ministries became involved in the process of drafting annual roadmaps to implement the EU-Ukraine Action Plan. As negotiations on the AA started in March 2007 (at that time New Enhanced Agreement) a special negotiation team headed by the deputy foreign minister and composed of representatives of other ministries and central authorities was created.[46] Ukraine and the EU also developed the Action Plan successor document, the Association Agenda, which was launched as of 2010 and is aimed at preparing both sides for the implementation of the AA once it enters into force. The EaP also creates new structures, mostly for multilateral cooperation. Thus, Ukrainian officials have already become involved in the work of the four thematic platforms[47] within the EaP, while the first annual foreign ministers meeting took place in December 2009. On top of that, programmes such as Twinning and TAIEX offered by the EU have involved more and more bureaucracy, which has become more informed where the EU standards are concerned.[48]

Where the domestic side is concerned, Ukraine launched the new Coordination Bureau for European and Euro-Atlantic Integration in November 2008 in the Secretariat of the Cabinet of Ministers

46 For the current composition of Ukraine's negotiation team on the Association Agreement see Decree 2010.

47 The Thematic Platforms cover the following areas of cooperation: democracy, good governance and stability; economic integration and convergence with EU policies; energy security; and contacts between people.

48 Since the Twinning was launched three years ago, 27 governmental institutions have been involved in the programme (Akulenko 2009:10).

with 50 employees dealing with various aspects.[49] The Ukrainian side of the EU-Ukraine Cooperation Committee and the respective sub-committees have met regularly for the past few years due to the extensive agenda of the relationship with the EU. Several Ukrainian ministries acquired a rather strong European dimension due to their important role in coordinating the work of the subcommittees within the EU-Ukraine Cooperation Committee. The Ministry of Economy, while also responsible for foreign aid (including EU assistance), is a key institution with regards to issues of economic integration. Termed as the 'centre of excellency' on legal approximation issues owing to the State Department of Legal Approximation under its auspices, the Ministry of Justice is responsible for cooperation in the field of Justice and Home Affairs (JHA), an arena where the EU and Ukraine cooperate within the separate Action Plans on Freedom, Security and Justice. The Ministry of Foreign Affairs largely coordinates the negotiation process on the Association Agreement and has been increasingly active with regards to issues of cooperation between the EU and Ukraine in Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP). Apart from these key ministries, the Ministry of Fuel and Energy deals with the ENPI budgetary support directed towards the reform of the energy sector. The Ministry of Interior together with other relevant executive authorities has become increasingly involved as the visa dialogue between the EU and Ukraine progresses. The Ministry of Education deals with Ukraine's involvement in the educational and research-related Community Programmes (for instance, the 7th Framework Programme for Research and Development) along with issues such as the Bologna process and educational cooperation in broader terms. While these are the key Ministries, this account is by no means exhaustive.

In total it makes over 650 civil servants with the relevant departments in different central authorities working on EU-related issues[50], not to mention numerous civil servants taking part in ad hoc programmes, training, and other activities.

Fewer activities of the kind take place outside of the capital Kyiv and the central authorities, yet more opportunities are also emerging on the regional and local levels. Thus, Ukrainian western regions that border the EU are involved in the four cross-border cooperation programmes with their EU-based counterparts. Regional administrations all over Ukraine are involved in organising annual Days of Europe, as well as in implementing several State Programmes in the field of European integration. Over 230 civil servants working with EU-related issues are based in the regional administrations.[51] In short, as the EU-Ukraine relationship progresses, Ukraine has not only developed new institutional structures at home, but also participated actively in those offered by the EU with the increased number of institutions and people involved.

The EU has also contributed with several rather successful technical assistance projects aimed at supporting the process of EU-related institution building. One of the very successful projects was the so-called European Union Co-ordination Project (EUCOP), funded by the Global Opportunities Fund of the British Government. The establishment of the Coordination Bureau for European and Euro-Atlantic Integration in the Secretariat of the Cabinet of Ministers mentioned above was to a large extent the result of this project.[52] One has to note, however, that the presence of political will represented by the Vice-Prime Minister for European and International Integration was instrumental. On the same token, resistance to change led to the result that the objective of setting up a separate executive authority, headed by someone with the status of a Minister, was not achieved. Within the project a comprehensive assessment of different European integration coordination models was carried out and, based on the comparative analysis, proposals for the Ukrainian situation were developed. A number of study visits, training programmes, as well as expert and institutional support activities were carried out. The results the project achieved were the best possible given the political climate in Ukraine at that time.

Another example is the Ukrainian-European Policy and Legal Advice Centre (UEPLAC), which provides support to Ukraine in its legal approximation activities. The project provides support in prioritising the fields for legal approximation, assistance in preparing and drafting the legislation, and advice as to the implementation of the adapted legislation. The UEPLAC experts work with various stakeholders in Ukraine involved in the process of legal approximation, organise public events and publish various expert materials.[53] The UEPLAC in its different configurations has worked in Ukraine since

49 After the 2010 presidential elections as Ukraine refused from the goal of the NATO membership, the Bureau was renamed into the Coordination Bureau for European Integration, while its stuff was reduced.

50 Information obtained from the Secretariat of the Cabinet of Ministers of Ukraine.

51 Information obtained from the Secretariat of the Cabinet of Ministers of Ukraine.

52 See http://www.britishcouncil.org/ukraine-projects-eucop.htm and http://www.eucop.ier.com.ua/en/index.php.

53 For more information see the Project's web-page http://ueplac.kiev.ua/.

the mid-1990s and has provided immense support to the process of legal approximation.

Finally, the 'EU Support for the PCA implementation project' is worth mentioning. The project developed a consolidated system of monitoring and, through a number of trainings and seminars introduced Ukrainian authorities to the new system of strategic planning, implementation and monitoring whether it comes to the implementation of the PCA, the EU-Ukraine Action Plan, or the Association Agenda.[54] The project has clearly resulted in a change of the mindset and a more structured planning and monitoring on the part of the bureaucracy involved in the process.[55]

Implications of institutionalised and bureaucratised policy-making

Whether the abovementioned institutional changes and adjustments resulted in any substantial alterations beyond the immediate institutional settings is difficult to estimate, not the least due to the fact that the time frame since 2005 has been rather short. Nevertheless, two observations can be made. Firstly, there has been a steady increase in the number of institutions, activities and human resources involved. As Wolczuk (2007: 15-20) puts it, "enclaves" of Europeanization have been emerging in Ukraine. Secondly, no summits, meetings, the negotiation process on the AA, the Association Agenda, the visa dialogue, or other activities have been cancelled or seriously postponed despite the constant political turmoil in Ukraine. In fact, despite the never-ending political crisis, the lack of political will for reforms, and the economic recession to make things worse, the EU-Ukraine cooperation agenda has been growing and indeed moving from partnership to integration. As then deputy foreign minister Kostiantyn Yeliseev (2009: 1) put it:

> *…the age of EU enlargement based on politically motivated 'waves' is over. Yet, the age of enlargement based on gradual, year by year 'infiltration' has started. This presupposes step by step integration in economic, cultural, scientific-technological, and, as the result, in the political spheres.*

As EU and Ukraine are moving towards new integration projects, more and more European-minded bureaucracy and structures are likely to appear. For instance, the AA, which includes a deep and comprehensive FTA and sectoral integration, will require that Ukraine aligns its legislation with that of the EU in many sectors and modernises its regulatory environment accordingly. This alone will have an immense impact on the judiciary, which is currently highly politicised, but will have to adjust itself to a more liberal economic environment and increased competition. The same can be said about Ukraine's membership in the European Energy Community, as well as Ukraine's chances of becoming a part of the European Aviation Space. As bureaucracy negotiates these integration projects with the EU with very little political leadership, at some point it might turn out that the integration channels have become numerous and well-entrenched, which will require different domestic actors to accept the new rules of the game. The theory of path-dependency suggests that one might become locked into a path and that 'locking out' of it might be too costly (Pierson 2004). In other words, the institutional entrapment or institutional inertia might become strong enough to put Ukraine firmly on the European track in the long-term. Another way of approaching the issue of the implications of European integration for Ukraine at the level of institutions and civil service is through the approach of network governance. Thus, Lavenex (2008) and Freyburg et al. (2009) argue that the institutional extension of the EU's sector-specific governance frameworks to the neighbouring countries results in integration at the sectoral level and in the adoption of democratic standards and procedures in sector-specific governance, although not necessary implementation in practice.

What else can be done to strengthen and expand the institutional links?

For the time being the European-minded structures and institutions are not well enough entrenched in order to challenge the current system of policy-making and to influence the key reforms Ukraine has to undertake. Indeed, these are still small enclaves of bureaucracy and civil servants who are the agents of the process of European integration within public institutions in Ukraine. They need to be expanded and strengthened. Thus, the EU could consider expanding the Twinning programme beyond the central government level. Since civil servants at the regional level, particularly in the regions not covered by the cross-border cooperation programmes, have limited exposure to EU standards and the EU's way of policy-making, a Twinning programme covering regional and local levels would be useful. This is of course complicated due to the unfinished

54 For more information see the Project's web-page http://www.pca.kiev.ua .

55 The author took part in several seminars of the project and communicated with both the project management and beneficiaries in the Ukrainian government.

decentralisation process in Ukraine, which means that local authorities have limited powers in comparison with their counterparts in the EU member states. Nevertheless some pilot projects could be considered.

Moreover, while cross-border cooperation programmes are offered to local authorities from the western regions of Ukraine that border the EU, similar opportunities need to be offered to the other regions of Ukraine. In this respect, the recent proposal to launch the programmes of inter-regional cooperation between the EU and the EaP partners is worth being elaborated and implemented.

Next, apart from capacity building for civil servants, the EU needs to employ an approach where entire institutions will be targeted. The Twinning programme, although a good instrument of socialization, has had limited impact due to the lack of motivation for civil servants to apply the skills they gain. Given that institutions remain unreformed there is no demand for the skills and knowledge introduced by the Twinning programme (Akulenko 2009:10). Thus, fostering the capacity of individual civil servants needs to be matched with reforming institutions and the entire civil service system. The implementation of the Comprehensive Institution Building Programme offered under the Eastern Partnership could be a solution. The idea of jointly (EU and Ukraine) selecting several core institutions in specific sectors and reforming them based on the detailed and comprehensive reform plans with clear timelines and sources of support seems to be a step in the right direction. It is expected that by the end of 2010 the EU and Ukraine will agree and sign the Memoranda of Understanding on the Framework Document, which will identify institutions and issues to be tackled. As a next step, the multiannual institutional reform plans will be developed for each selected institution. The EU would have to assist not only with funding, but deploy its experts to advice and provide guidelines on the ground, and to take stock of the progress.

Finally, implementation is important. Legal and institutional changes do not automatically lead to new practices or the European way of policy-making. It was observed already in the EU accession countries that the process of Europeanisation often resulted into establishment of 'Potemkin institutions' (Jacoby 2004: 17). In Ukraine, where the rule of law is very weak, meaning that there is lack of law-abiding culture, the risk of non-compliance is expected to be much higher. Thus, the EU needs to think of more scrutiny and guidance where implementation is concerned. In this respect, the decision to set up the Joint Committee at Senior Official Level (CSOL) to jointly define annual objectives and oversee implementation of the Association Agenda was a positive step. One of the reasons for poor implementation of the EU-Ukraine Action Plan during 2005-2008 was the lack of the joint decision-making on implementation of the Action Plan; in other words the Ukrainian government decided unilaterally on the annual objectives and measures to be implemented within the Action Plan (Duleba et al. 2008: 24). In contrast, under the Association Agenda, the joint CSOL allows for joint decision on the objectives and regular taking stock of the progress of their implementation (Joint Committee at Senior Official Level 2010). As a next step the EU might think of more guidance on implementation at the level of different institutions where implementation is actually taking place backed up by more staff at the EU Delegation in Ukraine.

IV Is incremental European integration under risk? Russia as an intervening variable

Ukraine seems to create a bigger challenge for the EU (as compared to the CEECs and even the Western Balkans) not only from the perspective of its domestic developments, but also from the perspective of being the country where the EU's influence is counterbalanced by another external power, namely Russia. Unlike the EU's policy, which aims at promoting democracy, rule of law, good governance and at liberalising Ukraine's market, Russia's policy seems to pursue the objective of maintaining or even increasing its influence in the post-Soviet space and therefore its weight on the global scale.[56] Weakening and destabilising the neighbours may well be a part of the strategy, especially when it comes to the need to legitimise its own regime at home. While the rationale behind Russia's approach and policy towards Ukraine is a topic, which deserves a separate study (Duleba 2009), for the objectives of this paper it is important to understand what kind of influence Russia has or may have on Ukraine in terms of counterbalancing the EU's Europeanising impact.

Clearly, the roots of the problem are in Ukraine itself. It is a young country that lacks a coherent political nation and a clear sense of direction in terms of the model of transformation (European *versus* post-Soviet). Finding itself between the two conflicting normative powers with conflicting value systems makes it difficult for Ukraine to make a clear-cut choice in favour of the European model of transformation. While everything European is attractive, Russia still appears as a strong state with higher social and economic standards than Ukraine. The problem is also increased by the strong Soviet legacy and the lack of reforms in Ukraine despite pro-European rhetoric since late 1990s. As a result, for many people, who still remember Soviet social standards and relative security and stability, independent Ukraine has failed to present a more attractive alternative system with its policy of European integration.

Besides the fact that Ukraine lacks a clear sense of direction, its political elites stand ready to exploit the international environment and popular moods for earning domestic political dividends. Thus, no political force or political leader advocates European integration in terms of explaining to the voters the specific benefits of integration with the EU. At the same time many political forces (in fact the majority of the presidential candidates in the 2010 campaign) promoted the concept of a neutral status/'third way' for Ukraine, given that popular support for European integration was low. Although the newly elected president of Ukraine Viktor Yanukovych made his first international visit to Brussels[57], he relied heavily on pro-Russian rhetoric before and after the election clearly in the attempt to gain political scores against the background of deteriorated relationship with Russia under Yushchenko's presidency. The attempts to 'improve' relationship with Russia apparently went too far, as a number of policy moves in relation to Russia alienated the electorate in the Western Ukraine. Those steps include a large number of meetings with either President Medvedev or Prime-minister Putin, and often without transparent and open agenda. These have also included two visits by the Patriarch of the Russian Orthodox Church to Ukraine whereby he was welcomed by President Yanukovych and other Ukrainian politicians, the removal of the objective of the NATO membership from Ukraine's agenda followed by the adoption of the law prohibiting Ukraine to join military and security blocks (read NATO), and the decision to prolong the lease on the port of Sevastopol for the Russian Black Sea fleet.

Moreover, many business interests in Ukraine, which are affiliated with political elites, find it more attractive to derive short-term economic benefits from cooperation with both the EU and Russia without incurring the potential political and economic costs integration with either of the sides might bring (Puglisi 2007: 90). While moving towards a free trade area with the EU will require substantial short-term costs, as a result of the increased competition and transparency, the political costs of economic and political integration with Russia might vary between losing control over strategic assets such as the pipeline network system to losing sovereignty in foreign and domestic politics. Under these terms the status quo of balancing between Russia and the EU, without going too far in either direction may look like the best option from the perspective of the political elites. While before 2004 it was fashionable to frame such a policy as a 'multi-vector' policy, the new concept offered by Ukraine's current foreign minister Kostiantyn Gryschenko is that of 'strategic balancing' (Hryshchenko 2010: 1). Gnedina conceptualizes this policy through the prisms of Putnam's two-level game theory, whereby Ukrainian elites sustain 'a complex bargaining game with Russia and the EU, trying to extract as many concessions as possible from both partners' (Gnedina 2009: 9).

56 See Leonard et al. (2009) for a good account of perspectives and approaches towards this topic in Russia.

57 The inauguration took place on 25 February 2010.

One example, which well illustrates this way of thinking, is the decision to prolong the lease on the military port of Sevastopol where Russia keeps its Black Sea fleet for another 20 years in exchange for cheaper Russian gas. While the stationing of the Russian Black Sea Fleet in Sevastopol creates a number of problems to Ukraine (Solonenko 2009: 204-208), not to mention the fact that turning it into a commercial harbor would better serve Ukrainian interests, the cheaper gas from Russia in no way contributes to the reform of the gas market in Ukraine or stimulates energy efficient production. Simultaneously, Ukraine adopted the law on the gas market, which is one of the conditions for Ukraine to receive international financial support for modernization of its gas transportation networks.[58] The law relies on the relevant EU legislation and was developed in consultation with the EU Delegation to Ukraine, yet it in no way guarantees that it will be implemented to reform Ukraine's energy market in practice (Institute for Economic Research and Political Consulting 2010).

The above indicates that, as much as Ukraine's location between the two different value systems complicates the development of a coherent political nation, it also serves as an opportunity for shortsighted and rent-seeking political elites to receive political dividends and economic gains. In this situation, where the Ukrainian public at large is not aware of the benefits of integration with the EU might bring, Russia appears to be better positioned to maintain its influence in Ukraine. Russia has always been a close neighbour of Ukraine and, moreover, it shares the same Soviet past with Ukraine. The EU has become Ukraine's direct neighbour only recently. Moreover, in many ways Russia appears closer and easier to understand for Ukraine than the EU. This has to do with the common language (although Russian has no official status in Ukraine, it is widely spoken), the common informational space (given that Ukrainian television, cinema and entertainment industry are in a bad shape, while Russia could build on the Soviet infrastructure that remained in Moscow, Ukrainian informational space is overwhelmed with Russian products[59]), and a similar mentality. Finally, Russia appears to be easier to access and more open. Ukrainians enjoy visa free and even passport free (Ukrainians can travel to Russia with a domestic identification card) travel to Russia, while those Ukrainians who have any experience of obtaining a Schengen visa know the difficulties associated with it.

Apart from this 'soft' leverage[60] Russia demonstrates a good potential to use more active and aggressive tools to influence decision-making in Ukraine. Firstly, Russian leverage stems from Ukraine's energy dependency. Since 2003[61] Ukraine is 100 per cent dependant on Russian gas (Ukrainian gas production satisfies roughly only 1/3 of its domestic consumption, households, public institutions and industry taken together), while energy efficiency is very low in Ukraine. The 2006 and 2009 gas wars, when Russia cut off its gas supplies to Ukraine and, as a result, to other European countries serve as a good example. The border between Ukraine and Russia, which is not demarcated (exists on the map agreed by both sides, but is physically absent outside of the crossing points), is another problem.[62] The transparency of the border makes Ukraine exposed to illegal migrants from third countries who head to the EU[63], while protected external borders is one of the conditions for the visa free travel with the EU. Russia shows interest in maintaining the status quo and in this way preserving its leverage over Ukraine. On one occasion it even made clear that a unilateral demarcation of the border by Ukraine might lead to the introduction of visa requirements for Ukrainian citizens. Given that such a move would be highly unpopular among the electorate-rich East-Ukrainian regions, Ukrainian political elites would not dare pushing too harshly. Finally, the stationing of the Russian Black Sea fleet in the Ukrainian harbour of Sevastopol is another leverage Russia is interested in maintaining.

The Russian factor is probably not the biggest one that hinders the reform process in Ukraine. Apparently the causes of the lack of reforms are domestic. Yet, Russia complicates

58 On 23 March 2009 the EU hosted an investment conference in Brussels at which it was agreed to grant Ukraine a € 2.5 billion loan for the rehabilitation of Ukraine's gas transit system; and the Joint EU-Ukraine Declaration was signed, which committed Ukraine to undertake reforms in the energy sector. This provoked a negative and sharp reaction by Russia, which has been trying to control the Ukrainian gas transit system for a long time.

59 Russian media only covers 7% of the Ukrainian audience (Pelnēns 2009: 293). Nevertheless, the editorial policy of many Ukrainian TV channels and of the printed media is far from objective, which means that coverage is often presented from a Russian perspective.

60 For a comprehensive overview and comparison of the Russian and the EU's leverage vis-à-vis the Eastern neighbours see Popescu/Wilson 2009.

61 Before 2003 Ukraine was also purchasing gas from Turkmenistan. Since 2003 Russia is purchasing the Turkmen gas for export; the contract was signed for 20 years.

62 This refers to the land border. For more information on this aspect see Solonenko 2009: 198-203.

63 According to some estimates, up to 80 per cent of illegal migrants who head for the EU through Ukrainian territory come from Russia (in fact, from third countries through Russia). See Kravchenko 2006.

Ukraine's Europeanisation looking against the background of our analytical framework for EU's transformative power towards Ukraine. This paper has shown that the EU has limited impact on the political elites and the reform process mainly due to the fact that under the current EU's policy towards Ukraine (based on long-term and vague incentives with lack of conditionality) and the current political regime in Ukraine (rent-seeking political elites with short-term thinking), the costs of compliance with EU requirements are too high, while non-compliance costs next to nothing. At the same time, the domestic pressure for adaptation in Ukraine has been low. Where the EU has succeeded it has been by helping to create the enclaves of Europeanisation and reference points for those reform-minded actors. These actors have so far had limited impact. Yet, assuming that the EU-Ukraine relationship are progressing with more bilateral commitments, more pressure and involvement on the part of the EU, and more institutional and people-to-people links emerging, this 'incremental integration' might lead towards greater compliance with EU norms and practices in the long term. This model might work given there is no additional external intervention, which can upset the EU's impact. Russia seems to be exactly the actor possessing the leverage to upset the EU's whatever limited impact.

More specifically, Russia helps to encourage non-compliance with EU demands, since it offers short-term benefits for shortsighted political elites for policies, which go contrary to Europeanisation objectives. In other words, the incentive to implement reforms becomes even lower on top of the already low costs of non-compliance with EU demands (no possible sanctions on the part of the EU). Additionally, Russia might apply threats to withhold political or economic support to incumbent or oppositional political elites, thus encouraging certain policies leading Ukraine away from the reform process. Russia's potential to influence public opinion in Ukraine, more so than the EU, increases vulnerability of Ukraine's political elites vis-à-vis Russia. In short, Russia's influence mainly supports the status-quo (Racz 2010) under which the EU-related reforms are not implemented or delayed.

In this situation, the EU needs to employ a more strategic thinking to counterbalance the Russian influence if it is serious about Europeanising Ukraine. This could be done by focusing on positive agenda and introducing more socialisation and institutional channels, while at the same time making the EU more visible in Ukraine not only via the visits of the EU officials, but also via tangible regional development and infrastructure projects. The EU needs to comprehend that, unlike the CEECs and the Western Balkans, Ukraine and other eastern neighbours are not 'empty vessels' (Popescu/ Wilson 2009: 51) due to the Russian interest in these countries. Thus, the EU needs to complement its policy focused on institutional inertia with tools, which would make the EU more politically visible and significant in Ukraine. In this respect the presence of both the High Representative Catherine Ashton and the President of the European Parliament Jerzy Buzek at the inauguration of President Yanukovych, as well as visits by several European Commissioners and the President of the European Council Hermann Van Rompuy in the following months were positive moves. The EU could also make Ukraine-related issues part of its political dialogue agenda with Russia, making clear that it also has an interest in the region and that stable Ukraine would benefit all parties.

Conclusions

Several months before the presidential election in Ukraine, the former Ukrainian Ambassador to the EU Andrii Veselovsky and his deputy Vasyl' Filipchuk both stated that Ukraine should submit its formal application for EU membership in spring 2010, following the presidential elections (Rettman 2009: 1). This move reflected the mood of the pro-European and reform-minded part of the Ukrainian society which understands that mobilization around the idea of Europeanization and a shift of the balance of power in favour of the supporters of this idea is only possible after the country acquires a sense of direction. On the day of the Ukrainian Presidential inauguration in February 2010, the European Parliament supported this intention by adopting a resolution, which made reference to Ukraine's right to submit an application for membership based on Article 49 of the Treaty on the European Union (European Parliament 2010). Given the ambivalence of Ukraine based on its historical legacies and strong veto-players among the political elites, the country indeed needs a strong external reference point, which could have a mobilizing impact on the reform-minded forces.

Yet, given that the membership perspective might be wishful thinking, one has to look at the leverage the EU could potentially have irrespective of this strategic and symbolic commitment. To this end, the paper has attempted to challenge the opinion that the ENP has failed to make a difference in Ukraine. Indeed, a closer look suggests that multiple actors and processes in Ukraine have reacted differently to the EU's policy, and the interplay of various domestic trends with EU influence has resulted in a rather patchy picture. Firstly, the paper has shown that the EU has had almost no impact on the political elites in Ukraine. This segment of the Ukrainian society largely represents the interests of the business administrative groups who possess the majority of the country's economic wealth and are well positioned to use state institutions in their interest, rather than pursue what can be understood as national interest. This group is in principle in favour of European integration and is definitely interested in preserving its sovereignty vis-à-vis Russia, which means that there is a 'red line' in terms of how far certain representatives of the elites are prepared to compromise. In other words, the policy of balancing between the EU and Russia that Ukrainian elites have pursued, without going too far in any direction, is highly beneficial for satisfying their short-term individual interests. Under the EU's current incentive structure, the Ukrainian political elites can continue their policy of balancing, which means that they make commitments to the EU, but only implement those commitments very selectively and on an ad hoc basis. As long as they keep to the minimal standards of free and fair elections (one of the achievements of the Orange Revolution) and certain elements of procedural democracy (the EU's unspoken 'red line'), the current pace of the relationship with the EU will be preserved. In short, the mode of conditionality the EU has offered to Ukraine so far allows the political elites to avoid the costs of reforms, while still enjoying the benefits that integration with the EU offers to them. The EU can improve its policy by limiting the scope of action of the Ukrainian political elites and by matching their short-term thinking. This means introducing short-term incentives and developing very specific and clear-cut objectives and requirements.

Given the nature of the Ukrainian political elites and their limited reform potential, it is important to know whether the Ukrainian society can play a role here and whether the EU has enhanced its role. The paper has shown that the potential of the Ukrainian civil society to influence the reform has by and large remained rather weak. Civil society has not managed to hold the elites accountable or to influence reforms. At the same time, civil society has had limited impact on public opinion and the mobilisation of the society at large – another factor that allows the political elites to ignore civil society. The paper has shown that the EU has offered some tools for the limited circles of civil society to put certain EU-related issues on the agenda and, thus, influence public discourse, as well as decision-making at the bureaucratic level. The EU, its member states, and its civil society have also increased the socialisation channels for Ukraine's civil society. Yet, the EU has failed to grasp that in countries like Ukraine, where the political elites are predominantly veto-players, reforms cannot be pushed for without civil society and the EU acting in coalition. This means the EU would need to invest more into civil society in order to turn it into a strong domestic partner who could push for the EU agenda from within. To this end, the EU would need to widen its outreach among the Ukrainian civil society; it would also need to assist in solving some structural problems, such as the unfavourable regulatory environment and the lack of funding from the state budget. These issues should become part of the political dialogue with Ukrainian public authorities, which need to take responsibility for civil society development in the country. Last, but not the least, the EU needs to engage in capacity-building activities for civil society, borrowing some instruments from the accession policy toolbox.

Finally, the paper has shown that the EU, due to its institutionalised way of policy-making, has managed to create a certain amount of path-dependency and institutional inertia (mostly at the bureaucratic level). It has encouraged the development of new EU-related institutions in Ukraine and has also assisted this process via technical assistance projects. Moreover, the EU has developed a number of bilateral and multilateral institutional links with Ukraine, and a number of these institutions are growing. Interestingly, the EU-

Ukraine negotiations and the pace of cooperation have proved to be immune to the overall political climate: none of these processes has been halted by the political instability in Ukraine. The paper has argued that it might even be possible to talk about the potential for institutional 'entrapment' of Ukraine (which means the EU would create a critical mass of institutional links with Ukraine, as well as institutions and procedures within Ukraine, which would make opting-out too difficult). For the time being, however, the relevant processes are not yet well entrenched. Evidence suggests that Ukraine has embarked on a process of incremental integration with the EU and 'bifurcated'[64] Europeanization. The EU has become a reference point for many domestic actors in Ukraine, but it has not yet produced a critical amount of resources (actors and institutions) in Ukraine, which would put the country firmly on the European track.

Due to the EU's weak incentive structure and weak conditionality, which is matched by weak pressure for reforms from inside the country, the potential of these processes for inciting fully-fledged Europeanization remains questionable. The EU needs to strengthen its conditionality – thus reducing the costs of reforms vis-à-vis the potential benefits – and introduce short-term incentives compatible with the short-term thinking among the political class of the country. The EU also needs to be clear that its policy will not succeed unless it is matched by strong domestic pressure for reforms, which at the moment can only come from civil society. Turning civil society in Ukraine into a true reformist partner requires more investment on the part of the EU. Finally, the EU needs to deal with Russia's conflicting policy, by effectively counterbalancing its influence. These three elements – high adoption costs resulting from the nature of the incumbent regime and weak conditionality on the part of the EU, little domestic pressure for reforms from within, and the intervening Russian factor – create a very specific situation for the EU's transformative power, not only in Ukraine, but in all the other Eastern neighbourhood countries. These elements limit the EU's transformative power, as compared to the CEECs and even the Western Balkans. If the EU is serious about reforming and Europeanizing its Eastern neighbours – which is in fact a commitment made by the EU in the ENP and the EaP – it needs to deal with these three elements in the future.

64 Hughes, Sasse and Gordon (2004) use this term when conceptualizing the Europeanization of the CEEC .

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