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THE EUROPEAN NEIGHBOURHOOD POLICY TOWARDS UKRAINE: NO REAL INCENTIVES OF THE HAUNTING SHADOW OF RUSSIA?

The ENP is a weakly institutionalized framework for bilateral relations between the European Union and targeting countries. The European Neighbourhood Policy is not a “possible-membership” cooperation policy, therewith being a rather limiting agenda. The relations of the European Union and Ukraine are not bilateral, with Russia emerging as the third party.

Key words: *The European Union, Ukraine, the European Neighbourhood Policy, conditionality, membership, Cooperation Agreement, Association Agreement, Russia.*

Яковенко К., Малова Д. **ЕВРОПЕЙСКАЯ ПОЛИТИКА ДОБРОСОСЕДСТВА ОТНОСИТЕЛЬНО УКРАИНЫ: ОТСУТСТВИЕ РЕАЛЬНОЙ МОТИВАЦИИ ИЛИ НАВЯЗЧИВАЯ ТЕНЬ РОССИИ?**

Европейская политика добрососедства является слабо регламентированной и ограниченной политикой для двусторонних отношений между ЕС и странами, на которые она направлена. Европейская политика добрососедства является политикой без присутствия каких-либо перспектив будущего членства в ЕС; достаточно ограниченной политической программой. Отношения между ЕС и Украиной не являются двусторонними, а трехсторонними, где третьим „партнером” выступает Россия.

Ключевые слова: *Европейский Союз, Украина, Европейская политика добрососедства, кондициональность, членство, Договор о сотрудничестве, Договор об ассоциации, Россия.*

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ЄВРОПЕЙСЬКА ПОЛІТИКА ДОБРОСУСІДСТВА ВІДНОСНО УКРАЇНИ: ВІДСУТНІСТЬ РЕАЛЬНОЇ МОТИВАЦІЇ АБО НАВ'ЯЗЛИВА ТІНЬ РОСІЇ?

Європейська політика добросусідства є слабо регламентованою і обмеженою політикою для двосторонніх стосунків між ЄС і країнами, на які вона направлена. Європейська політика добросусідства є політикою без присутності яких-небудь перспектив майбутнього членства в ЄС; досить обмеженою політичною програмою. Відносини між ЄС і Україною не є двосторонніми, а трибічними, де третім „партнером” виступає Росія.

Ключові слова: *Європейський Союз, Україна, Європейська політика добросусідства, кондиціональність, членство, Договір про співпрацю, Договір про асоціацію, Росія.*

According to Article 49 of the Treaty on European Union, any European state that respects the values of the European Union and meets the conditions for admission may be eligible for membership [1]. Although de jure proclamations and official provisions are favorable towards the enlargement, de facto actions of the European Union suggest a thought that interpretations of the Article widely vary from country to country. While EU law is virtually non-existent, EU practice is divergent, and international standards are ambiguous [2]. Moreover, the prospect of membership for countries is restricted by the EU's limited capacity for further enlargement due to its fear of internal efficiency problems in an enlarged Union [3]. Particularly, the „reading between the lines” refers to the case of Ukraine.

The following study puts up an aim to thoroughly review the relations of the European Union and Ukraine, to define the reasons why the cooperation has been a failure so far, and, basically, to state if the European Neighborhood policy is a cooperation tool or just a polite, diplomatic „friendship”, bringing no real incentives and no real perspective.

Proving the latter, the study tries to examine the reasons of such a misfortunate relationship between the EU and Ukraine, outlining the inner and outer reasons. The inertness of Ukraine itself (as to the positive changes in order to meet the *acquis communautaire*) and its playing on the two fields simultaneously (the EU and Russia) being inner reasons, while unwillingness of the EU to treat Ukraine as an independent (from Russia) European country being the outer one.

Thuswise, the first section of the article is focusing on the theoretical framework of the European Neighborhood Policy, implying the case of Ukraine. The second section proceeds with the view of the actual instruments the EU is practically applying upon Ukraine, while the third section is devoted to Ukraine's attitude towards the European integration, bringing Russia as the third party of the EU-Ukraine relationship.

The concluding section gives an overall assessment of the European Neighborhood Policy towards Ukraine, stating if it is successful or unsuccessful framework of cooperation, and finding the reasons why the state of affairs is as it is.

Throughout all the four sections, the methodology applied is presented in the form of comparison (with other members of the ENP and the already candidate or member countries) and analysis. Thus, the type of the following research is a desk research, obtained through the collection and review of the relevant documentation, that to some extent limits the fullness of the research and gives a possibility of its improvement, if further using the primary research methodology as well.

Analysis of the ENP: origin, goals and instruments.

The European Union and Ukraine share a 1,300 km-long border. Unlike the case of Turkey (though a candidate for full EU membership since 12 December 1999), Ukraine's European geographical position is not being questioned by anyone. Moreover, dating back to the year of 1887, Ukraine was proclaimed to be the geographical center of Europe [4]. For over a millennium, Ukraine and Europe have been sharing the same religion and historical heritage. The city of Kyiv, founded 1,500 years ago - the contemporary capital of Ukraine - is often referred to as a cradle of Slavonic civilization. With its ups and downs, Ukraine has been a presidential democracy for over twenty years now. However, in its main policy towards Ukraine - the European Neighbourhood policy - the EU puts Ukraine under the same umbrella with clearly undemocratic, Muslim and not-located-in-Europe states, such as Morocco, Syria or Occupied Palestinian Territory.

Thus, Ukraine does not consider the European Neighbourhood policy the answer to its European aspirations. It is neither a successful policy itself. As Roman Shpek, Ambassador of Ukraine to the EU stated: “We do not accept any substitute for European integration policy like one proposed by the concept of European Neighbourhood policy (...). We do not see any need in our further

participation in the ENP, which as it was said by different occasions, is politically not acceptable for Ukraine” [5].

On the other hand, the second partner of this complex relationship in the face of Ukraine is far from meeting the conditions to become a candidate country, let alone fully accepting EU’s *acquis communautaire*. Though the ruling Party of Regions, headed by the president Viktor Yanukovich, stresses out that the course of modernization and European integration is determinant for Ukraine [6], the events taken place lately give rise to serious doubts on behalf of the European community. The level of democracy and the rule of law - the basic core of the Union’s values – is permanently decreasing in Ukraine, especially over the last years [7]. The imprisonment of the former Prime Minister Yulia Tymoshenko and some other members of her Cabinet was assessed by the international community (including the EU) as politically-motivated selective justice [8]. The common position of the EU on the new elections to the Ukrainian parliament, that took place on 28 October 2012, is formulated as “a step back in comparison with the elections in 2007 (parliamentary elections), and presidential elections in 2010” [9].

As the result to these misfortunate evaluations, for the first time in 15 years the summit EU-Ukraine will be cancelled. Although the European Union officially refers to technical reasons, the Ambassador of Ukraine to the European Union Konstantin Eliseev assesses it as a bad political signal, plus pointing out that Russia had two summits with the EU this year [10].

According to the „EUobserver”, political reasons indeed prevail over technical in the decision to postpone the summit, as “nobody wants to see him [Viktor Yanukovich] shaking hands with VIPs in Brussels so soon after the elections. It would be seen as EU approbation of his authority despite the poor conduct of the parliamentary vote” [11].

All the above mentioned factors „contribute” to the difficulties and obstacles in the relations of the European Union and Ukraine, and if not bringing the results of the European Neighbourhood policy (towards Ukraine) to naught, than considerably reducing positive achievements.

It is worth to mention that the EU and Ukraine, analyzed as separate international actors, have certain problematic peculiarities, influencing the course of mutual relations. As distinguished from the East-Central European countries (in their policies towards the EU), Ukraine advocates an alternative framework for political integration [12] in the face of Russia, as the Ukrainians want to „have it all” [13].

On the other side, there is a considerable amount of „enlargement fatigue” in the European Union [14]. Back in 2002 the Commission President, Romano Prodi, declared: “We have to be prepared to offer more than partnership and less than membership.” [14, p.3]. Especially taking into account the fact that Ukraine is the biggest country in Europe territorially and takes up the fifth place as to its population. In case of admission, „it could take a dominating position in institutions and decision-making processes” [15, p.16] pulling over the „power” from such countries as France or Germany. So “the EU – Ukraine „strategic partnership” is an explicit example of a misfortune relationship between the two sides which pursue different agendas since the Ukrainian aspirations with regard to the EU are much more ambitious than the EU is prepared to accept” [16, p.9].

Proceeding from the logic of the above mentioned, we witness an interesting type of cooperation, where the EU is ready to offer „everything but institutions” [17], and Ukraine is ready to do everything but approach to the EU *acquis communautaire*.

The cooperation of the European Union and Ukraine until 2004. Partnership and Cooperation Agreement (1998).

The European Neighbourhood Policy is based on Partnership and Cooperation agreements (PCAs) and it does not foresee the introduction of any new type of agreements. Thus it would be efficient to briefly sift EU-Ukraine relations preceding the ENP implementation.

The official dialogue between the EU and Ukraine started in October 1993, when the European Communities Commission’s Representation was opened in Kyiv. Same year in March the first Ukraine – EC Troika meeting was held at the level of Ministers for Foreign Affairs. Since 23 March 1993 negotiations on the PCA had been held. On 14 June 1994 Partnership and Cooperation Agreement between the EU and Ukraine was finally signed, with Ukraine ratifying it on 10 November same year. But only four years later the Agreement came into force, precisely on 1 March 1998 (trade related provisions entered into force in February 1995 by way of an Interim Agreement), followed by the first meeting of the Ukraine-European Union Cooperation Council on 8 June 1998. During the meeting, the Ukrainian Prime Minister officially announced Ukraine’s aspiration to become an associate member of the EU.

According to Article 1 of the Partnership and Cooperation Agreement, it was signed in order to „provide an appropriate framework for the political dialogue between the EU and Ukraine allowing the development of close political relations; promote trade and investment and harmonious economic relations and so to foster

their sustainable development; provide a basis for mutually advantageous economic, social, financial, civil scientific technological and cultural cooperation; support Ukrainian efforts to consolidate its democracy and to develop its economy and to complete the transition into a market economy” [18].

Leaping ahead, in the Joint Report on the implementation of the Partnership and Cooperation Agreement between the EU and Ukraine it was noted that „Ukraine has stated its concern that few actions have been taken to address the possible related problems [within EU-Ukraine relations], including: visa regime, trade-related effects, and impact on co-operation between business communities. Ukraine emphasized that a way forward would be for Ukraine to align its legislation, norms and standards as far as possible to the EU model, and for the EU side to consider an inclusive policy on involvement of Ukraine to European integration” [19].

Deviating diplomatic “politeness”, the PCA brought no substantial results, caused by the fact that „both Ukraine and the EU failed to understand each others' concerns” [20].

If to make analogy with Central and Eastern European countries, which became members of the EU during the big “wave” of enlargement in 2004 [21], it is obvious that the intentions of the EU towards Ukraine were different in the very core. Back in the beginning of the 1990's those CEECs were granted Association Agreements. Though it is difficult to distinct an association and a partnership in EU external relations [22], a partnership does not imply building common institutions or any prospect of future membership. The two sets of policies were very different in terms of what the EU offered to these countries, from symbolic incentives to the quality and the amount of financial assistance and trade relations and access to the Single Market [23].

Though the PCA expired in 2008, the Association Agreement with Ukraine is still not ratified due to the breach of democratic rights in the country (which will be discussed further in the study). Interestingly, in 2002 (ratified in 2005) the European Union signed an Association Agreement with Algeria, an Arab African country with an authoritarian regime, rating „not free” [24].

To summarize the effects of the PCA regarding Ukraine, the agreement „combined minor economic and financial incentives with a low-credibility threat to withhold them in the case of political non-compliance or promises regarding further relations” [25, p.11].

During the validity of the PCA, the „Common Strategy” on Ukraine became another weighty cooperation framework with the EU. The „Common strategies” were introduced after the

Amsterdam Treaty in 1997 with the aim to outline the important common interests of the member-states in different areas. „Common strategy” for Ukraine was ratified during the Helsinki Summit in December 1999 by the European Council. The „Strategy” included concrete requirements of the integration process, such as approximation of Ukrainian legislation to the EU legislation, political consolidation and democracy, economic integration and the development of trade, cooperation in the field of justice and home affairs. However, it was used by the EU as a tool for slowing down the Ukrainian accession aspirations once again [26], as the document stressed that cooperation beyond the scope of the Partnership and Cooperation agreement was not acceptable.

The Orange revolution in Ukraine and the reaction of the European Union

As the success of any policy depends on all the actors participating in it, it is essential to assess political situation in Ukraine during the time when the ENP was introduced. And this event coincided with the Ukrainian „Orange revolution”.

The Orange Revolution was the answer to the electoral fraud in the 2004 Ukrainian presidential election, embodied in the form of mass protests and demonstrations. This election represented two main candidates – the sitting Prime Minister Viktor Yanukovich (supported by Leonid Kuchma, President of Ukraine for two terms already) and the opposition candidate Viktor Yushchenko, leader of the „Our Ukraine” fraction in the Ukrainian parliament and a former Prime Minister as well.

Many domestic and foreign election monitors, as well as the widespread public perception, were convinced that the results of the run-off vote of 21 November 2004 between leading candidates Viktor Yushchenko and Viktor Yanukovich were rigged by the authorities in favor of the latter [27].

On 24 November 2004 Yanukovich was officially certified as the victor by the Ukrainian Central Election Commission. Due to the mass protests of the country's population and support of the international democratic actors, on 3 December 2004 Ukraine's Supreme Court ordered a revote of the run-off. It was held on 26 December 2004. On 10 January 2005 the Election Commission officially declared Yushchenko the winner of the presidential election giving him 51.99% of the total vote, and 44.20% went to Yanukovich respectively.

These events were a huge step forward in the development and consolidation of democracy in Ukraine (though independent from 1991, but still a Soviet-successor state). Apparently, it had to erect a reaction from the European Union, a democracy promotion actor, seeking to develop and consolidate democracy, the rule of law and

respect for human rights throughout the whole Europe [28]. Ukraine's Action plan (mentioned in the previous section of the study), with ten new amendments, was signed right after the Orange revolution. Commissioner Benita Ferrero-Waldner stated that Ukraine had made a „strategic choice” for reform and Yushchenko's inauguration opened up new possibilities, so there is a need to “find the right actions to support this choice in concrete terms” [29].

In the Strategic part of the EU-Ukraine Association Agenda (2009) it is noted that the „events in 2004 helped to accelerate the rapprochement between the European Union and Ukraine. On the one hand the „Orange Revolution” demonstrated Ukraine's determination to deepen the process of domestic democratic reform. On the other hand a further enlargement of the European Union took place on 1 May establishing a direct border between the EU and Ukraine. Both of these developments created an opportunity for the EU and Ukraine to move beyond cooperation towards gradual economic integration and deepening political association” [30].

While analyzing the reaction of the European Union to the Orange revolution in Ukraine, one should notice the differentiable attitude of separate members of the EU towards the event. The most evident supporters of Ukraine's democratic transformations were Poland and Lithuania. After joining the EU, those countries have been supporting further EU enlargement to the Eastern Europe, special focus remaining on Ukraine [14]. Also, the obvious partners of Ukraine's European integration were and still are Visegrad 4 countries [31].

However, important is to state that other EU countries were more cautious and preferred to keep distance from instead of approaching to Ukraine. While the European Parliament has called on EU leaders to give Ukraine a ‘membership perspective’, EU foreign ministers only went so far as to acknowledge that the Orange Revolution „is credible proof that Ukraine's European aspirations are based on common values shared by both European states and citizens” [34, p.18]. This could be explained by the idea that the unexpected victory of Yushchenko posed a big challenge for the European Union as the new President was profoundly committed to Ukraine's eventual membership of the EU [33, p.3]. The European Union was neither ready nor willing to give this perspective. The EU's founding members, such as Germany, France, Belgium, Spain and the Netherlands, opposed making any, even long-term, commitments [34] in terms of Ukraine's possible membership in the EU. So, even though being on the „wave of popularity” after the Orange revolution, Ukraine's Ministry for Foreign

Affairs decided not to apply for membership in 2005, as it was clear it would be refused.

To make a very brief conclusion as to the results of the Orange revolution in Ukraine, it helped to approach and, in some cases, to reach the following: the emergence of a structural basis for democracy, greater political freedom, greater media freedom, introduction of the economic reforms [35]. On the other hand, the EU's response to Ukraine's Orange Revolution served as a litmus test of the EU's ability to act in situations critical for further democratization and to respond flexibly. The EU's response proved to be rather incremental and not particularly far-reaching [28]. To make a very brief conclusion as to the actual results of the Orange revolution in terms of EU's attitude towards Ukraine – „in twenty years, all European states would be members of the EU, except for the successor states of the Soviet Union not already in the EU, such as the Baltic countries” [36]. No matter what, Ukraine is the outsider.

Introduction and operating of the European Neighbourhood Policy itself (2004)

Though the Partnership and Cooperation Agreement between the European Union and Ukraine remained in force until 2008, the year of 2004 was very significant in the EU-Ukraine relations. In 2004, the European Neighbourhood Policy was introduced, as a cooperation framework offered to the 16 countries: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, the Republic of Moldova, Morocco, the occupied Palestinian territory, Syria, Tunisia and Ukraine. Though Ukraine was put as the priority country within the policy [37], the international standards of the EU once again prove to be ambiguous [38], as some clearly undemocratic and non-Europe located states are put in the same line with Ukraine or Moldova.

The main aim of the ENP was to „avoid the emergence of new dividing lines between the enlarged EU and its neighbors and instead strengthen the prosperity, stability and security of all” [39].

The ENP dates back to the early 2002, when the United Kingdom suggested implementing a „wider Europe initiative”, covering the relations with Ukraine, Moldova, Russia and Belarus. Later on it was renamed to ‘proximity policy’, than to „new neighbourhood policy”, and finally to ‘European neighbourhood policy’. In December 2002 the Copenhagen European Council approved the idea, but included the southern Mediterranean countries in the policy, under the pressure of the southern member states.

The policy was first outlined in a Commission Communication on Wider Europe in March 2003. In the first Article of the document, it is said that „on 1 May 2004, the European Union will enter a

new and historic phase. An enlarged Union of 25 countries, with a combined population of more than 450 million and GDP of almost €10000 billion, will fundamentally increase the political, geographic and economic weight of the EU on the European continent.(...) Beyond the EU's borders, enlargement will change the shape of the EU's political and economic relations with other parts of the world.” [40]. Appropriate would be to notice that Ukraine, being an essential actor in the ENP, in this first Article was perceived as „another part of the world”, not as a part of Europe. Furthermore, the same Article states that the “Communication considers how to strengthen the framework for the Union's relations with those neighbouring countries that do not currently have the perspective of membership of the EU” [40]. But „in return for concrete progress demonstrating shared values and effective implementation of political, economic and institutional reforms (...) the EU's neighbourhood should benefit from the prospect of closer economic integration with the EU” [40]. Thus a very clear and transparent conclusion is to be made – from the very beginning the European Neighbourhood policy was not, in any way, aimed to approach any country it covers to membership in the EU, or, at least, to a prospect of membership. The ENP can be easily seen as a framework of Europeanization, as it was designed by Commission officials who had previously been in charge of enlargement and applied previously acquired tools to their new positions [41]. Consequently, the main mechanisms the European Union is applying through the ENP are socialization and conditionality.

In July 2003 the Commission tabled a Communication „Paving the Way for a New Neighbourhood Instrument” and established a Wider Europe Task Force and a Wider Europe Inter-Service Group. Later, the Commission has made two oral progress reports to the Council, in October 2003 and February 2004, and contributed to detailed discussions in the Permanent Representatives Committee and the relevant Council working groups, concerning the possible elements to be included in European Neighbourhood Policy (ENP) Actions Plans with a number of countries in Eastern Europe and the Mediterranean region [42].

Forth, a Strategy Paper on the European Neighbourhood Policy was issued in May 2004. One month later, in June 2004, the Council extended it still further to Armenia, Azerbaijan and Georgia.

It is necessary to mention, that the ENP is based on the Partnership and Cooperation Agreements (Eastern Europe) and the Association Agreements (the Mediterranean), this way enforcing its older agreements, not issuing new ones, as „the full potential of these agreements has

not yet been realized” [42, p.7]. At the same time, the leading framework of cooperation within the ENP for each country is more precisely outlined in Action Plans; to some extent it is the EU's way to show the „differentiable” approach towards the ENP countries, as indeed, Commission staff has been at pains to stress that the EU will not deal uniformly with all the ENP countries [41].

The „Strategy Paper” indicates that the „Action Plans will draw on a common set of principles but will be differentiated, reflecting the existing state of relations with each country, its needs and capacities, as well as common interests” [41]. The level of the European Union's cooperation with the particular country proportionally depends on the countries willingness to cooperate and to follow the EU's recommendations.

A Joint EU-Ukraine Action Plan was endorsed by the European Council on 21 February 2005, with the validity of three years. It was mainly based on the Partnership and Cooperation Agreement of 1994. The draft of the Ukraine's Action Plan included about 300 priorities, the final version listing the main of them: „ensuring the democratic conduct of presidential (2004) and parliamentary (2006) elections in Ukraine in accordance with OSCE standards; enhanced co-operation in common neighbourhood and regional security, including addressing border issues; accession to the WTO; improving the investment climate, through non-discriminatory, transparent and predictable business conditions; tax reform, improved Tax Administration and sound management of Public Finances; establishing a constructive dialogue on visa facilitation between the EU and Ukraine; gradual approximation of Ukrainian legislation, norms and standards with those of the European Union; further reinforcing administrative and judicial capacity etc” [43].

Though the document covers a vast field of cooperation, the Action Plan of Ukraine is characterized by some serious „shortages”. For example, it lacks clarity. One of the goals of the EU-Ukraine mutual cooperation is to ‘develop possibilities for enhanced EU-Ukraine consultations on crisis management’. Presumably it applies to both sides, but who is to “undertake first assessment of the impact of EU enlargement on trade between the EU and Ukraine during 2005 and regularly thereafter as appropriate” [44]. Another problem is to actually find the real incentive the EU is offering in return for the carried-out reforms [44].

With regard to the implementation and monitoring of the ENP towards Ukraine, the Action Plan stated that it would be jointly promoted and monitored through the Committees and sub-Committees established in the frame of the Partnership and Cooperation Agreement. There would be two types of monitoring: a joint

assessment and a unilateral EU report, also called the ‘regular country report’.

In March 2007 negotiations were launched on a new agreement to replace the Partnership and Cooperation Agreement. From the same year, the EU introduced the European Neighbourhood and Partnership Instrument (ENPI), including national, regional, cross-border and thematic components. Next, on 16 May 2008 Ukraine became the 152nd member of the World Trade Organization. Following the accession, the prospect of the establishment of a deep and comprehensive Free Trade Area with the EU appeared „on the table”. Furthermore, in 2008-2009 the European Neighbourhood policy was enriched with regional and multilateral cooperation initiatives: the Black Sea Synergy (February 2008), the Union for the Mediterranean (July 2008) and the Eastern Partnership (May 2009). Ukraine became the participant of two of those initiatives - the Black Sea Synergy and the Eastern Partnership.

The goal of the Black Sea Synergy (followed by The Black Sea Environmental Partnership launched in March 2010) would be increasing cooperation among the countries surrounding the Black Sea, addressing mainly the issues of transport, energy and the environment.

The Eastern Partnership is a project initiated by Poland and a subsequent proposal was prepared in cooperation with Sweden. It covers Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. The policy mainly implies establishing new association agreements with those countries, including deep and comprehensive free trade agreements. It should also allow for easier travel to the EU through gradual visa liberalization, accompanied by measures to tackle illegal immigration [45]. However, the funding of the programme is very modest. And what is more, it is criticized for „unclear political leadership” and “missing political guidelines” [46].

In 2009 the Action Plan EU-Ukraine expired, so the same year in November the Cooperation Council adopted the EU-Ukraine Association Agenda. The aim of the document would be to prepare for and facilitate the entry into force of the new Agreement. For example, for the years 2011/12, 90 priorities were jointly agreed by the EU and Ukraine. The utter attention is paid to strengthening democracy, rule of law, human rights and fundamental freedoms in Ukraine.

In December 2011, the 15th EU-Ukraine Summit was held, where a common understanding on the text of the Association Agreement was reached. Importantly, the Deep and Comprehensive Free Trade Area (DCFTA) for Ukraine is mentioned in the text, as an integral part of the Association Agreement.

In June 2012 the Eastern Partnership Integration and Cooperation (EaPIC) programme was adopted. The main aim of the new programme is to provide increased support to institutional and sector reforms in the Eastern European partner countries; with a view to accelerating their political association and economic integration with the European Union [47]. The programme is a part of the European Neighbourhood and Partnership Instrument (ENPI), introduced in 2007.

All the above mentioned agreements and initiatives „create” the European Neighbourhood Policy for Ukraine. As it was already stated, the ratification of the EU-Ukraine Association Agreement is postponed for an indefinite term.

Essential would be to notice that the ENP now falls under the External Relations Commissioner Benita Ferrero-Waldner, whose title now sounds as „Commissioner for External Relations and European Neighbourhood Policy”.

European Neighborhood policy towards Ukraine: weak conditionality and socialization

As it was mentioned above, the main mechanisms the European Union is applying through the ENP are socialization and conditionality.

Socialization through transgovernmental cooperation does not appear to have been consistent and effective substitutes for political accession conditionality, even if they were described as unique EU strategies [48]. During the enlargement process, on the contrary, the EU increasingly used socialization efforts in conjunction with conditionality EU officials travelled to candidate states to negotiate, but also to stimulate domestic debates on issues such as democracy, ethnic minority politics and human rights [49]. As socialization predicts that „actors are motivated by internalized identities, values, and norms” [50, p.675], it would be fair to state that it is a weak policy in terms of EU-Ukraine relations. Though one of the ENP’s socialization concepts is worth noticing, and that would be socialization through greater mobility, namely visa facilitation for Ukrainian citizens. The Agreement on the Facilitation of Issuance of Visas has been in force since January 2008. As Malmström, Commissioner for Home Affairs, stated: „The amendments of the agreement with Ukraine will further facilitate people to people contacts and make it easier for ordinary Ukrainian citizens who want to travel to Europe. The changes will facilitate travelling for, amongst others, representatives of the civil society, NGOs and journalists” [51].

But de facto, the Agreement offers the possibility of long-term and free of charge visas only to a certain narrow category of citizens. Plus, problems with proper implementation are

still widely observed. Moreover, from November 2012 the European Union has opened an investigation as to the mass breaches of visa facilitation agreements towards Ukrainian citizens by some diplomatic institutions of EU member-states [52]. This case shows a distinct asymmetry in EU-Ukraine relations, as from 1 May 2005, EU citizens are exempted from the visa requirement when travelling to Ukraine or transiting through the territory of Ukraine. This costs Ukraine 200 million dollars per year [53].

In this respect, it could be reminded that for Ukraine, there had been initially elaborated the concept of four trade freedoms – goods, people, capitals and services. However, it was quickly withdrawn from the agenda. In the case of Ukraine, there was fear of enormous migrants and labor wave, therefore the EU member – states decided to „defense” their interests by excluding this cooperation aspect [54, p.23]. The double-standard position of the European Union can be illustrated by the fact that Turkey was granted candidacy (a much “bigger” achievement than four trade freedoms), though according to the United Nations office on Drugs and Crime Turkey is a top destination for victims of human trafficking [55]. The Government of Turkey reported that, between the years of 2004 and 2007, thirty-two public officials were subject to judicial action for assisting traffickers. In 2007, the government relieved a Court of Appeals Judge of his duties for aiding traffickers [55]. It looks like the EU is willing to defend its borders on the one “side”, but to leave them „defenseless” on the other.

However, the relatively low level of life in Ukraine and the economic problems it faces also slow down the process of socialization from “bottom-up” especially. In a country with an average per capita income of less than \$380 a month, a \$300 ticket to, say Paris is out of the reach for most people [56]. So the population of the country, in general, does not have the possibility to travel around the world and to see how “it actually works” elsewhere.

Ukraine’s own faults as to the lack of substantial socialization can be also illustrated by the current situation with non-governmental organizations (NGOs) which could be referred to as agents of political socialization. Though the number of registered NGOs has grown in recent years, the Ukrainian authorities are setting up “clone” NGOs, for example “For Fair Elections”, which predictably gave the October elections a clean bill of health [57].

The phantom of conditionality.

Conditionality is the strongest mechanism of influence the European Union possesses. This could be proved on the cases of former EU-candidates and now member-states. The European Union applied conditionality to the enlargement

process, with membership conditional on candidate countries’ meeting the Copenhagen criteria and adopting the *acquis communautaire*.

Following the idea that conditionality serves both as a promising tool of the EU to promote democracy and a theoretical framework to explain causalities between the prospect of EU membership and a successful democratization process in the target country [58], in relation to Ukraine, conditionality is a much more complicated process, as the main incentive – membership – is missing from the agenda. Basically, the EU does not provide political rewards to Ukraine, instead giving only marginal tangible support through the TACIS (Technical Aid to the Commonwealth of Independent States), EDIHR (European Instrument for Democracy and Human Rights) and Tempus facilities [59]. Apparently, there is a clear distinction between two spheres of EU policy - the enlargement sphere, which is a conditionality-based extension of internal EU policy, and the foreign policy sphere [60] - it is where Ukraine could be referred.

However, it is necessary to outline the basic characteristics of the conditionality-based approach in order to understand why it is not a success with Ukraine. It is also important to notice, that in the case EU-Ukraine, we are focusing on political conditionality, as to be a consolidated democracy is one of the main requirements on the side of the EU for an „outer” country which seeks membership in the Union.

As Schimmelfennig argues, the effectiveness of political conditionality depends on three core conditions: the attractiveness of the incentives, the size of domestic adoption costs and the credibility of political conditionality [61].

A. The attractiveness of the incentives

In its very essence conditionality implies that Actor 1 is ready and willing to meet the conditions Actor 2 is advancing because:

- Actor 2 will reward Actor 1 (positive conditionality);
- Actor 2 will punish Actor 1 (negative conditionality).

As in the Ukrainian perception any arrangement on the part of the EU other than that of a membership perspective is not acceptable [62], the willingness to “receive” what EU is actually offering, or to be “punished” and not to receive “it” is becoming very vague for Ukraine. The only relatively attractive incentive the EU is distinctly offering to Ukraine is a deep and comprehensive Free Trade Agreement (DCFTA).

B. The size of domestic adoption costs

Legal adjustment towards the *acquis communautaire* requires a lot of expenses on behalf on Ukraine, especially with no perspective of membership included. However, even if we take a look at the DCFTA (mentioned above) as

real incentive, the size of domestic adoption costs is not as low, to the perspective of membership, as it may seem to be.

On 1 January 2010 Russia, Belarus and Kazakhstan announced the establishment of the Customs Union and invited Ukraine to join the organization. In order to lure Ukraine into the Customs Union, Russia offered to reduce the gas price, promising that Ukraine could save up to \$8-11 billion over several years [63, p.14]. Not only did Russia promise significant cooperation benefits to Ukraine, it also tried to raise the costs of Ukraine choosing to sign the DCFTA with the EU as the Customs Union has already adopted a range of trade restrictions in relation to exports from third countries on products such as ,for example, milk [64]. Plus, the signing of the DCFTA will not be of vital importance for Ukraine’s major export goods – metal and mineral products (50% of exports) as they stopped being subject to EU customs fees after Ukraine joined the WTO [65].

Even back in the Ukraine’s PCA there were some incongruities as to Ukraine’s „profits” gained from the EU. While average EU tariffs are only 3 per cent, they have tended to apply to goods in which Ukraine has no comparative advantage and therefore tends not to export; goods in which Ukraine does have a comparative advantage, such as steel and agriculture, have been limited by more severe quotas [66].

Overall, there is a tendency of EU benefiting more from the joint trade with Ukraine. In the last ten years, the trade balance EU-Ukraine increased by ten times in favor of the European Union [67].

C. *Credibility of political conditionality*

Credibility of political conditionality implicates that the sticks and carrots of the EU are real. That is clearly not the case of Ukraine. After the Orange revolution (discussed above in the study), no substantial carrots followed. Most importantly, the perspective of membership did not appear. Adding to this, credibility should involve clear criteria, evaluation mechanisms and time framework. In the EU-Ukraine Action Plan, very vague objectives were listed, without any prioritization or reference to a timeframe for their accomplishment, the Action Plan in general failed to introduce benchmarking [28]. Moreover, The ENP country reports, however, are less detailed and critical than the Progress Reports published by the Commission on accession countries [28].

Regarding the financial support of the European Union towards Ukraine, the Commission’s initial ambitions have not been followed by the European Council, the latter having envisaged a more restricted funding for the ENPI [68].

The postponing of the Association Agreement signing could be the most relevant „non-credible” component in the EU-Ukraine relations. The

European Union’s reaction in this case could be described as a negative conditionality, as Štefan Füle, European Commissioner for Enlargement and Neighbourhood Policy in his speech in September 2012 stated: „I want to be clear – we want to sign and implement the Association Agreement, but we can only do it if we have a confirmation that our European values will be upheld and respected. We want to move forward with Ukraine but how can we, when little action has been taken to redress the effects of selective justice, in the cases of Mrs Tymoshenko, Mr Lutsenko and others?(...) How can we move forward if the rights of the people, freedom of expression, association or media are not fully respected?” [69].

It would be fair to notice that the problems Mr. Füle named in fact exist in Ukraine, and in that way European Union’s position in showing the truth. However, in terms of citizens’ rights and political freedoms, Ukraine stands alongside Romania, Bulgaria and Croatia and goes head of Turkey [70]. This means that EU’s credibility in the eyes of Ukraine is vague again. Here we can also add that the EU’s conditions for previous applicants looked only deceptively straightforward, because they were very general and not amendable to quantitative assessment, leaving ambiguity about exactly when they have been met [71]. For example, as of August 1 2012 Turkey – a country with a candidacy status - imprisoned 76 journalists [72], that does not exactly look like the “full respect of the media’s rights”.

Going back to the Association agreement, in October 2012 Kostiantyn Yelisieiev, Ambassador of Ukraine to the European Union stated: „I urge my EU colleagues: Sign the Association Agreement! Not because we want it, but because we deserve it. Because it is the best possible guarantee of Ukraine’s way to European standards and its future as an independent and sovereign state” [73]. In this respect, the “guarantee of Ukraine’s way to European standards”, provided by the EU is under the question in the basic documents of the Commission. „The pace of progress of the relationship will acknowledge fully Ukraine’s efforts and concrete achievements in meeting commitments to common values” [74, p.1], but in the strategy paper it is said that „the EU does not seek to impose priorities or conditions on its partners” [75, p.8].

Discussing the effects of conditionality we could add some more important components to Schimmelfennig’s above mentioned core elements. According to Kubicek [76, p.18], to achieve results through conditionality, *interests of important stakeholders and veto players should not be harmed in the target country*. Plus, *when the target country has no alternative possibility to*

gain the desired incentive, then the attractiveness of cooperation or integration increases.

In respect to Kubicek's conditions, the domestic situation in Ukraine prevails the conditionality to be a success. It is impossible to deny that Ukraine has a heavy Soviet legacy and cultural past. The so called Ukraine's „new political elite” is in fact presented in business-administrative groups called oligarchs [77, p.16], who are de facto representatives of the former Soviet bureaucratic institutions. At one point so many businessmen sat in the *Rada* that the „Ukrainian parliament was more reminiscent of the New York Stock Exchange than the US Congress” [78].

The main veto players for the EU conditionality are those oligarchs, as Ukrainian big business has very close connections with Russia, namely in the energy sector. As the financial industrial groups of Ukraine pose a huge impact on the state governing, they could be called external veto players for Europeanization. Though important is to say that some of the oligarchs, on the contrary support eurointegration. However, good relations with Russia are important for the oligarchs and none of the groups is interested in direct conflict even though the degree of their determination in avoiding them varies [79].

Mentioning Russia, in fact, leads to the second Kubicek's component – *lack of alternatives*, as some scholars view Russia as a real alternative or even obstacle for Ukraine's eurointegration. The fact is that Russia is a more promising welfare provider and potentially an integration partner of choice which has been reinforced by the lack of major Western investment in Ukraine [80]. It looks so as in some areas Russia is ready to offer Ukraine more carrots than the European Union. It could be proved by the fact that Ukraine's transit role is very important to Russia (as Ukraine transits 80% of its gas), as well as important is the economic cooperation in industries like steel and agriculture. Even more importantly, Ukraine's strategic location as a borderland between Russia and Europe and its proximity to Russia's own breadbasket and economic heartland in the Volga region make the country key to Russia's geopolitical strength and, ultimately, its survival [81]. So, unlike CEEs states (now EU members) Ukraine has a strong alternative to the EU in the face of Russia.

Аpropos, Russia is an important international player for the EU as well, that according to some scholars, forms EU's policies towards Ukraine. Instead of participating in the ENP, Russia cooperates with the European Union in the long-term four „common spaces”, being the parts of the Partnership and Cooperation Agreement: economy; freedom, security and justice; external security; research, education and culture. Though

energy security issue is now a major factor in EU-Russia relations, the external security issue has recently become one of the cooperation priorities, especially in the light of recent conflicts in the Middle East.

Some scholars go as far as claiming that that the EU's unwillingness to open the door for Ukraine is determined the „Russian factor”, and not by the political and economical problems of Ukraine. As long as the EU - Russia relations have cooperative nature and Kremlin remains an important political and economical partner, Ukraine will be excluded from Brussels' institutional framework [26].

Ukraine's view of the European Union: partner, enemy or just an alternative?

Despite all the possible insinuations, we can firmly state that Ukraine has always seen the European Union as the main partner on the political arena. It has been drifting towards the West ever since its split from the Soviet Union, the notion of independence basically implying the independence from Russia [82]. Over the past several years, Ukraine has frequently affirmed that its foreign policy goal is to join „all European and Euro-Atlantic structures with priority given to the European Union”.

However, in most cases Ukraine views the EU as a political perspective only, while its nature as a multi-level economic mechanism is underestimated. Thus, one of the main obstacles on Ukraine's way towards Europe and from Russia is a financial constituent. Many Ukrainians, as well as Russians, fear that the Ukrainian-Russian border would turn into a new ‘iron curtain’ if Ukraine joined the EU [83], and that bilateral trade would be disrupted.

Moreover, whenever Ukraine is trying to reduce „Russia dependence”, the European Union takes a hedging position. For example, Ukraine has been eager to eliminate its dependence on Russia as to the energy supply, namely to diversify it and to modernize the aging pipeline network. However, it has received little assistance from the EU to fulfil these efforts [84].

Such an attitude of Europe is definitely affecting Ukraine's decisions in the political-economical sphere, with Russia particularly. This in its turn confuses the European authorities as to Ukraine's real intentions. A vivid example to that is the Customs Union of Belarus, Kazakhstan, and Russia (further referred to as the CU) formed on January 1, 2010 between the mentioned states. The Customs Union is a first step towards forming a broader European Union-type economic alliance of former Soviet states, implying Ukraine as one of them.

The Customs Union is definitely putting Ukraine on the crossroad, the DCFTA being in one direction, and the CU in the other. So what we have is the EU's vague promise to sign an

Association Agreement by the end of 2013 and a “strong invitation” of Russia to join the CU, applying a real negative conditionality.

About the latter, on 10 December, Viktor Yanukovich said that Ukraine had begun harmonizing its national legislation with the CU’s regulations, in order to avoid discrimination against Ukrainian producers and losing the CU market [85], as Russia was threatening Ukraine to apply economic sanctions in case Ukraine refused from the CU.

It is also obvious that Ukraine tries to play on both fields, as Ukrainian Prime Minister Mykola Azarov said: „There are serious surveys saying that we should cooperate with the Customs Union member states. And I would like to stress that we should also interact with another customs union – the European Union” [86]. Though these attempts are doomed, because the two Unions are colliding in many provisions, as according to the representative of the European Commission ” it would not be possible for Ukraine to align to both (technical regulations) at the same time. It is for Ukraine to choose which path to follow, knowing that the Customs Union and the EU-Ukraine Association Agreement are mutually incompatible” [87].

The majority of experts agree upon the interpretation that the Customs Union with Russia is a backup for Ukraine in case the Association Agreement would not be signed.

On the latest EU-Ukraine summit in Brussels on February 25th Ukrainian president Viktor Yanukovich strongly promised to reform Ukraine’s economy, political and judicial systems. However, the promises were so broad, and the requirement of the EU so unrealistic, that most of the political representatives on both sides are inclined to think the Association Agreement will not be signed in 2013. This requires Ukraine to balance and not to give straight answers to Russia, at least before November 2013.

The position of Ukraine towards the Unions could also be interpreted in a slightly different way. Viktor Yanukovich and his team do not really share any European values, instead, the negotiations with the EU are a bargaining chip to play against Russia, while Russia is being used as a lever to extract concessions from Brussels [88]. Besides, the presidential electoral campaign in Ukraine is rather close, the economic development in Ukraine being at a critical point, Viktor Yanukovich is definitely interested in receiving a discount for Russian gas. In its turn, this sends double signals to the EU concerning Ukraine’s position, both political and economical. It entails an even more reduced interest of the EU in Ukraine.

For Europe, Ukraine is most (if not only) important for its location, 25 percent of the European Union’s natural gas comes from Russia,

and 80 percent of that gas is transited by Ukraine. But Russia also values Ukraine because of other economic industries, namely steel and agriculture. Plus, Ukraine is crucial to Russia for military reasons - the Ukrainian city of Sevastopol is the headquarters for Russia’s Black Sea Fleet. Thus, Russia is much more active towards wangling Ukraine.

If we really look into the situation deeper, we could come to a conclusion that by introducing the Wider Europe concept and the European Neighborhood Policy, the European Union has actually entered a region which Russia has long considered the sphere of its national interests [89]. Further conclusion to be made – it is not about Ukraine, it is about the European Union and Russia dividing their influence on the Post-Soviet Space.

To properly answer the question raised in the name of this section, we need to take into account the third party in the face of Russia. Yes, the European Union is undoubtedly seen by Ukraine as a much stronger partner. But here a second question appears. Could Ukraine be seen as a fully independent actor on the international political arena, particularly by the EU? Basing on the information and conclusions previously discussed in this study the answer will be: no. We could claim that it is the fault of both Ukraine and the European Union. Though, as “the battle is to the strong”, the European Union has much more opportunities than Ukraine, the question is only in the willingness to use them.

The still enlarging European Union in fact meets a great challenge as to the further deepening of cooperation with the countries at its Eastern borders. Ukraine, neighboring with Slovakia, Poland, Hungary and Romania, and being characterized by a *de jure* democratic political regime, represents an interesting and contradictory case of the EU’s policy towards its neighbors. Included in the European Neighborhood policy, Ukraine experiences quite a negligible influence of the European Union. While the ENP was expected to offer real political association and deeper economic integration, as well as increased mobility and more people-to-people contacts, after 9 years of implementation it proves to be a failure in the mutual relations between the EU and Ukraine. According to our analysis, this happens due to several reasons.

Firstly, it is caused by the very core basics of the European Neighborhood Policy which excludes the perspective of membership as it is. The ENP is too broad and too vague and does not differentiate between countries. Ukraine is put in one line with non-European, non-democratic, Islamic states, which have the same rights under the ENP. Using a comparative analysis, we elicit the very different attitude of the European Union towards the Central and Eastern-European

countries (EU-members after the big enlargement of 2004) as they were granted Association Agreements from the beginning of their cooperation with the EU. The European Neighborhood Policy towards Ukraine from its very creation was just a diplomatic framework to maintain a cooperative association, and not a strong policy of Ukraine's integration into Europe.

The second line of our argumentation follows the discrepancies in the European Neighborhood policy as a policy itself, in reliance to the case of Ukraine. The main instruments of the European Neighborhood Policy – represented in the form of socialization and conditionality – appear to be weak and non-effective. Particularly conditionality, the strongest instrument of influence the EU possesses, fails due to the partial or full absence of its three core conditions of effectiveness – no attractive incentives on behalf of the EU, high domestic adoption costs, and no credibility of political conditionality. About the latter, we vividly illustrate it on the example of the Orange Revolution, when the European Union has failed to respond to the democratic changes in the country. Furthermore, the European Union shows a higher level of indulgence when it comes to assessing other countries' democratic achievements in comparison with Ukraine (the mentioned cases of Turkey, Rumania and Bulgaria).

The third line of argumentation we are adding in our study is that the EU-Ukraine relations are not mutual, but three-dimensional which also leads to the cooperation fiasco. Russia, emerging as the third party, on the one hand gives Ukraine a weighty alternative to the European Union. This empowers Ukraine with a possibility to „maneuver”. Besides, Ukraine proves to be dependent on Russia not only because of the long-shared history, but because the conditionality imposed by Russia is much stronger than the one imposed by the EU. This is seen as to Russia's application of economical conditionality especially. On the other hand, the big shadow of Russia deprives Ukraine of being perceived as a fully independent political actor on the international arena.

In both cases, this poses a negative effect upon Ukraine's European integration. We argue that flirtation with Russia sends double signals to the EU (thus discouraging its cooperation initiative), while being perceived as a Russia-dependent country puts Ukraine's interests on the middle ground.

To summarize the conclusions made in this article, we could refer to the words of the President of the European Commission Romano Prodi: „[we] cannot go on enlarging forever. We cannot water down the European political project and turn the European Union into just a free trade

area on a continental scale” [90]. Taking seriously this perspective of the EU, the prospectus of the future cooperation of Ukraine with the EU offers very weak goals. The complicated political situation and degradation of democracy inside Ukraine, interweaved with the brooding shadow of Russia, leave Ukraine an outsider of the European integration processes, at least for now.

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ГЛОБАЛІЗАЦІЯ 3.0 І УКРАЇНСЬКА МОДЕРНІЗАЦІЯ

Здійснено спробу визначити вплив якісно нового виду сучасної глобалізації та модернізації на розвиток України. В процесі розвитку всі суспільства зустрічаються з цими явищами, однак з'являється проблема вибору між внутрішніми процесами та зовнішніми. розглянуто коротку історію, можливі наслідки та результати для України в межах даних процесів.

Ключові слова: глобалізація 3.0, модернізація, корпоратизм, види співпраці, неокорпоратизм, Інтернет, інновації, Україна

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ГЛОБАЛИЗАЦИЯ 3.0 И УКРАИНСКАЯ МОДЕРНИЗАЦИЯ

Предпринята попытка определить влияние качественно нового вида современной глобализации и модернизации на развитие Украины. В процессе развития все общества сталкиваются с этими явлениями, однако появляется проблема выбора между внутренними процессами и внешними. рассматривается краткая история, возможные последствия и результаты для Украины в пределах данных процессов.

Ключевые слова: глобализация 3.0, модернизация, корпоратизм, виды сотрудничества, Интернет, инновации, Украина

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