

Інтеграція права України до права ЄС

УДК 341.1/8

THE FOUR PRINCIPLES THAT STRUCTURE EU-UKRAINE COOPERATION, OR THE CORE OF THE EUROPEAN NEIGHBOURHOOD POLICY “IN A NUTSHELL”

Olga Burlyuk

PhD in International Relations, University of Kent, United Kingdom/Belgium

Annotation: EU-Ukraine cooperation unfolds within the framework of the European Neighbourhood Policy and is structured by four principles: differentiation, joint ownership, shared values and conditionality. Based on document analysis and in-depth interviews with policy-makers, this article offers a critical analysis of the declared meaning and the peculiarity of practical application of these four principles in the non-accession context. The analysis is particularly timely now, when EU-Ukraine relations took a turn unexpected by many and would need to be reconceived whatever the outcome of the political crisis in Ukraine. The findings of this article are useful for other scholars in their own analyses of general and sector policies of the EU towards Ukraine and other countries.

Keywords: European Neighbourhood Policy; differentiation; joint ownership; shared values; conditionality

The political dialogue and practical cooperation of the European Union (EU) and Ukraine unfold within the framework set by the European Neighbourhood Policy (ENP) as the relevant EU regional policy. The ENP Strategy Paper (2004) puts forward, and the later policy additions reinforce and elaborate, a set of guiding principles on which EU cooperation with the region is to rest: differentiation, partnership through joint ownership and on the basis of shared values, and conditionality.¹ The four principles as guiding the policy and respective cooperation are stated in subsequent Commission Communications on Strengthening the European Neighbourhood Policy (2006), A Strong European Neighbourhood Policy (2007), Eastern Partnership (2008), Taking Stock in the European Neighbourhood Policy (2010), A new response to a changing Neighbourhood (2011) and Delivering on a new European Neighbourhood Policy (2012). This article offers a critical analysis of the declared meaning and the peculiarity of practical application of these four principles, or their scope conditions in the non-accession political context. It is important to understand their real meaning and scope, because the principles

¹ I refer to these four notions as principles following the formulation of the EU itself and the terminology common in the literature. This should not be interpreted as suggestive of these four being homogenous categories.

structure EU cooperation with Ukraine in the region in general and in specific sectors or policy areas. Returning to the fundamentals and getting them straight is especially timely now, when EU-Ukraine relations took an unexpected turn on the threshold of the Eastern Partnership Summit in Vilnius in November 2013 and will need to be reconceived whatever the outcome of the current political crisis in Ukraine. As these principles form the core of the ENP as such and are common for EU cooperation with either of the ENP states, this article provides a review of the ENP in a nutshell. The findings of this article are, thus, useful for other scholars in their own analyses of general and thematic EU policies towards Ukraine and beyond.

The article draws on original empirical data collected through the analysis of relevant EU policy documents and in-depth expert interviews with EU policy-makers and their Ukrainian counterparts, conducted in the period of September 2009 – September 2013. This data is accompanied by arguments made in the secondary literature. Below, I analyse differentiation, joint ownership, shared values and conditionality principles in turns.

Differentiation

The principle of differentiation implies that priorities for EU cooperation with each partner depend on partner's "particular circumstances", including "geographic location, the political and economic situation, relations with the European Union and with neighbouring countries, reform programmes, where applicable, needs and capacities, as well as perceived interests in the context of the ENP" (ENP Strategy Paper, 2004, p. 8). The principle of differentiation and the need for increased levels of differentiation based on partners' aspirations, needs and capacities are emphasised in all subsequent strategic papers on the ENP, including Communications on Strengthening the European Neighbourhood Policy (2006, p. 8), A Strong European Neighbourhood Policy (2007, p. 3), A new response to a changing Neighbourhood (2011, pp. 3, 21) and Delivering on a new European Neighbourhood Policy (2012, p. 2). Basically, this principle is an acknowledgement that the respective regional policy and institutional framework is not more than an umbrella for a set of essentially bilateral relations between the EU and its partners, 'tailored to the level of ambition' in each case. The launch of the ENP is, therefore, a statement by the EU of its intention to intensify bilateral relations with an (inherently artificial) group of countries.¹ The EU cooperation with Ukraine (or any other country, for that matter) develops as before, at its own pace and following its own path, albeit within the paradigmatic boundaries marked by the regional policy and in the institutional forms designated by it.² Moreover, country-specific differentiation is accompanied by differentiation by policy area or sector of

¹ The ENP was designed to address both Eastern and Southern neighbours of the EU, but split into two parts eventually.

² The deepened institutional framework of such bilateral arrangements consists of respective Partnership and Cooperation Agreements (PCA); Action Plans and Association Agendas to compensate for the obsolescence of those PCAs; annual Lists of priorities and Action fiches accompanying them; Strategy papers and Indicative programmes (for a number of years, by sub-region and by country); and annual Progress reports.

cooperation. The application of such differentiation by country and by policy area makes variation or incoherence in EU policies towards different countries inevitable. EU relations with each of the ENP states develop at their own pace, and progress or delay in integration of one state does not automatically affect the integration of the rest. Therefore, for example, decisions of Armenia to withdraw from the Association Agreement negotiations and of Ukraine not to conclude the Association Agreement at the Eastern Partnership Summit in Vilnius did not preclude the signature of a variety of documents between the EU and other Eastern Partnership countries.¹

An important nuance about the application of the differentiation principle, however, concerns path dependence in EU external policies and the power and the fear of setting a precedent. Ukraine took the reins of leadership among the so-called Newly Independent States as early as 1994, when it was the first country to sign the Partnership and Cooperation Agreement (PCA) with the EU.² Since then, but most eloquently during the last decade, Ukraine has been regarded as a frontrunner, a pioneer, a beacon of democracy, a poster child, and even a groundbreaker for and among the post-soviet countries. Although, according to political analysts and interviewees, Ukraine's position as the best pupil in the class has been languishing in the last two years: most recently, the country's progress on the path of European integration loses to that of Moldova, Georgia and even Armenia (see Kuzio, 2012; Solonenko, 2011; 2012, p. 228).³ And the decision of the Ukrainian government on 21 November 2013 not to sign the Association Agreement with the EU during the Eastern Partnership Summit has put the future of their bilateral cooperation in question. Still, for the time being, Ukraine remains a country engaged in the most elaborate, deep, advanced cooperation with the EU amongst non-candidates to date. Due to its size, resources, population and geographic location along the North-South and East-West axes, its geo-strategic and geo-economic importance, as well as its potential influence over other states in the region, Ukraine is considered a major neighbour and a crucial test case for the ENP as an alternative to enlargement.⁴

Consequently, a few novel arrangements were developed in EU-Ukraine relations (like the notion of a Deep and Comprehensive Free Trade Area), and a new layer of path dependence in EU external policies can be observed. If at first

¹ The EU Association Agreements with Georgia and Moldova were initialled and other important cooperation agreements (e.g. on visa liberalisation) between the EU and Eastern Partnership countries were signed at Vilnius Summit.

² Eventually, EU-Ukraine PCA was also the first one to enter into force upon ratification by all parties in 1998. Interestingly, Ukraine was followed by Moldova already then: Moldova was the second NIS-country to sign a PCA with the EU five months after Ukraine, and EU-Moldova PCA entered into force only 4 months after EU-Ukraine PCA did.

³ All EU officials who reflected on the matter in interviews praised Moldova's reform progress, its proactive attitude and the quality of relations with the EU in general (Interviewees 32, 33, 39, 40, 41, 43, 44, 45, 46 and 47). Most of them also named Georgia and Armenia as countries quickly catching up with Ukraine. However, Interviewees were reluctant to say that Ukraine had definitely lost its frontrunner position.

⁴ The fact that this combination of features gives Ukraine a unique status in Europe was highlighted already prior to the ENP, in the Common strategy on Ukraine in 1999 (articles 1 and 2), and is restated continuously in the preambles of Resolutions on Ukraine by the European Parliament (for instance, in the more recent Resolutions of 24 May 2012, 1 December 2011, 27 October 2011, 9 June 2011, 25 November 2010, and 25 February 2010).

the EU copied in its relations with Ukraine tools and instruments it employed with the Central and East European countries earlier, then in the last five years or so the EU has been extending the relatively novel arrangements developed for dealing with Ukraine to other countries in the post-soviet region. The Eastern Partnership in its entirety can serve an example of such institutionalisation and extension of Ukraine's path of integration with the EU to respective countries as a model. Indeed, steps taken in EU-Ukraine relations demonstrate to other states in the region what is achievable for them in relations with the EU. Being a frontrunner, Ukraine acted as a groundbreaker, a battering ram, a force paving the path in relations with the EU for other states in the region (see Mkrtchyan, Huseynov, & Gogolashvili, 2009; Raik, 2011; Wolczuk, 2011; Елисеєв, 2009). However, for Ukraine itself this means that progress in its relations with the EU can be constrained by the fear of the EU to set a precedent for other countries under the same framework policy. The EU is being extremely careful and selective, for example, in what concerns visa liberalisation issues and further political and economic association with Ukraine, because the 'privileges' granted to Ukraine may and will be instantly claimed by other ENP states. At the same time, the costs of EU reservations and inaction towards Ukraine are also higher, due to Ukraine's role as an advanced post in the region and its potential of setting not only a *positive* example for its fellow-neighbours, but also a *negative* one. For instance, the extraordinary Freedom House report on Ukraine predicted that, "[I]f it moves in a more authoritarian direction, Ukraine will not only cast a cloud over its own future, but also damage hope for reform in Eurasia as a whole" (Kramer et al., 2012, p. 4). Currently, in times of a deep social and political crisis in Ukraine, the EU faces the potential consequences of its categorical conditionality towards Ukraine over the past three years and risks the whole region falling into authoritarianism.

Joint ownership

At the most general level of political decisions, joint ownership principle stands for the bilateral nature of their relations. The political wills of the two actors – the EU and Ukraine – need to meet for a paradigmatic change in their cooperation to occur. The fate of the Association Agreement between the EU and Ukraine is the main example: the text of the agreement has been negotiated in 2007-2011 and initialled in 2012; however, further progress in concluding the agreement has been on hold first on the initiative of the EU and then of Ukraine.

At the level of routine political and practical cooperation, ideally, the principle of joint ownership – and joint accountability/responsibility that follows naturally – implies that the design and implementation of EU policy towards a state are demand-driven and mutually beneficial. The principle of joint ownership is embedded into the ENP starting with the ENP Strategy Paper (2004, p. 8) and is emphasised as essential in all subsequent documents, including Communications on Strengthening the European Neighbourhood Policy (2006, p. 3), A Strong European Neighbourhood Policy (2007, p. 3), A new response to a changing Neighbourhood (2011, pp. 2) and Delivering on a

new European Neighbourhood Policy (2012, p. 12). Joint ownership is also a key principle of the Eastern Partnership. Accordingly, the Action Plan is “not an imposition by either side, but an agreed agenda for common work” (Strengthening ENP, 2006, p. 3). The parties share the famous ‘driving seat’, if it is not even the partner state driving EU policy.¹

Yet, the practical application of joint ownership principle, particularly to policy design, is subject to criticism. Scholars argue that “[t]he real mutuality of partnership is somehow missing” (Cremona, 2004, p. 7). The relations are driven predominantly by what the EU wants and how far the EU is ready to go; and so cooperation documents reflect the internally agreed preferences of the EU and are a joint product of various EU actors rather than of the EU together with its external partner.² As Wolczuk (2011) reports her field work:

“The partner countries note that any differentiation in the EU’s policies takes place within the limits unilaterally drawn by the EU. So while ‘joint ownership’ has been emphasised both in the ENP and the EaP, this ‘co-ownership’ does not extend to defining the policy objectives, instruments and the scope of differentiation” (p. 7).

Logically, policy design is EU-driven effectively, because “it is Ukraine who wants to be closer to the EU and not the EU who wants to be closer to Ukraine”, to quote a senior EU official (Interviewee 45). In the end, it is up to the partner to live up to EU standards, which are not subject to compromise; “so there is no talk of a middle common denominator here” (Interviewee 45).³

At the same time, speaking of joint ownership, the officials highlighted in the interviews the essentially voluntary basis of cooperation under the ENP in terms of partners’ compliance as compared to accession context and the inability of the EU to impose anything on the partner state.⁴ In short, their argument implies that the setting of cooperation priorities, sub-priorities and action points in the ENP context *must* be carried out jointly to a reasonable extent; otherwise, there is little sense in embarking on implementation later on. In his note to scholars, Herdina(2007), then Head of ENP Sector Coordination Unit in DG Relex, stresses that compliance remains essentially voluntary even when there are convincing economic benefits for the partner (p. 502). So, joint ownership of policy formulation is necessitated by political considerations regarding policy implementation. The EU officials were (surprisingly) vocal about this, like in this example: “Well, with the joint ownership it is very simple: if the government does not want something, you cannot advance at all” (Interviewee 31). Moreover, practical considerations matter, too, as the partner state is more

¹ References to “the driving seat” are common in EU discourse, especially with regard to technical and financial assistance to third states, and were made occasionally in the interviews (Interviewees 6, 14, 21 and 42).

² For critiques of the unilateral nature of the ENP in general and with respect to Ukraine, see Bobitski(2008, pp. 459-462), Casier(2011, p. 40) and Gawrich, Melnykowska&Schweickert(2010).

³ Notably, this point was admitted by interviewees from both EU and Ukrainian sides.

⁴ Particularly, this point was emphasised by EU officials – Interviewees 31, 32, 33, 39, 40, 42, 44, 45, 46 and 54. Ukrainian experts also emphasised the difference between the accession and the non-accession context, namely, Interviewees 6, 7, 11, 23, 49, 52 and 53.

knowledgeable about its own domestic institutional context and reform agenda and hence can direct the EU as to what needs to and should be done.

In practice, the EU consults with the relevant partner on draft contents of its policy documents, even if these documents are essentially unilateral, internal for the EU. For example, the drafts of the EU Action Plan for Ukraine 2005 and the Revised Freedom, Security and Justice Action Plan 2007 were approved by a decree of the Cabinet of Ministers of Ukraine and Association Agenda 2009 is a joint document approved by both sides, as emphasised by a Ukrainian diplomat (Interviewee 53). An EEAS official so commented on joint ownership:

“And although this [NIP] is *not* formally a document that we have to sign both or so, formally there is no such requirement, and that of course affects how the process is carried out... But at the same time, we... cannot *meaningfully* go forward with the document that the Ukrainian side *hates*, either. Because this is about our support to Ukraine... But I mean, *normally*, we would share the draft, at least the draft of this document and get feedback. So definitely consult. But more consultations than negotiations, I would say.” (Interviewee 39)

So, a more accurate capture of joint ownership principle is that the EU develops its unilateral policies towards the region in consultation with partners but not in negotiation with them.¹ The partner state does not have any veto power over the final decision of the EU to include or exclude a priority area. “Ultimately, EU policy is unilateral, of course, but it is not blind, I mean, it considers or tries to consider [partners] to some extent”, as a Ukrainian diplomat summarised (Interviewee 53).²

The inherent ambiguity of the joint ownership of policy design is captured in a quote from an EU official, “But again: we cannot impose anything on Ukraine, so we are just suggesting and bringing up issues. But of course, if we want to put it in, we put it in” (Interviewee 46).³ Sasse(2010) argues that Ukraine capitalises on this constructive ambiguity of EU policies by projecting its own expectations clearly and consistently and by highlighting the emphasis which the EU itself put on differentiation and joint ownership principles. Like this, Ukraine actively tries to shape “an atmosphere of the negotiations” and to expose any “signs of EU unilateralism”, so that finally “[p]utting a positive spin on open-ended EU policy proposals has become part of Ukraine’s strategy vis-à-vis the EU” (p. 189). Ultimately, joint ownership of policy formulation, combined with differentiation by country and by policy area, results in the selectivity of priorities and rules introduced into policy documents.⁴ As Herdina(2007)

¹ Interviewees 40, 52 and 53 defined the involvement of the partner state in terms of consultation not negotiation, too.

² Interviewee 53 continued saying, “to *what* extent and whether this extent satisfies us or not is, of course, a different question”.

³ Importantly, this point was highlighted in the interviews by representatives of both EU and Ukraine.

⁴ Dragneva and Wolczuk(2012, p. 228) come to the same conclusion.

emphasises, “the ENP does not seek to ‘export’ the *acquis* wholesale. This would be unwise, unrealistic and – in some respects – unaffordable” (p. 502).

Shared values

Together with the paradigms of neighbourliness and partnership, the paradigm of value promotion penetrates EU rhetoric and policy documents. The Treaty on the European Union (TEU) speaks of “the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law” as constituent of the European heritage and inspirational for the creation of the EU (Preamble, paragraph 2). These founding values of the Union are said to be common to EU Member States (Article 2). The TEU attaches matching significance to values in EU external relations. To this end, shared values are mentioned as a guiding principle for EU action on the international scene and are said to have inspired not only the creation of the Union, but also its enlargement (Article 21, section 1). Moreover, the EU seeks to advance “democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law” in the wider world (Article 21, sections 1 and 2). Countries which share these principles are entitled to a somewhat privileged relationship with the Union (Article 21, section 1). Finally, respect for the listed values is a precondition for membership in the EU (Article 49). Such positioning of shared values is maintained throughout the ENP policy papers, starting with the Wider Europe Communication (2003). The ENP is framed as a privileged relationship based on precisely the “mutual commitment” to the “common values”, since EU neighbours pledged adherence to these values by joining various international treaties and through bilateral dialogue with the EU itself. Effective commitment of EU partners to the shared values is, therefore, essential for advancing with this privileged relationship (ENP Strategy 2004, pp. 3, 12, 13). The exact list of shared values may vary, but the basis consists of democracy, human rights, the rule of law, good governance, market economy and sustainable development. These are said to form “a matreshka in which all dolls are the same size and you never know which one should be at the core”, to quote Nathalie Prouvez.¹

Similarly to joint ownership, ‘partnership on the basis of shared values’ means ultimately that a partner state shares and commits to the values common for EU member states. As Leino and Petrov (2009) put it, “the abstraction of ‘common’ or ‘shared’ values within the ENP results in a policy that formally promotes jointly shared values but which, in practice, amounts to the EU’s own reading of them” (p. 656). In the absence of an appropriate legal and institutional mechanism for fostering a debate between the EU and ENP states on the meaning of common values, EU neighbours “are expected to change their

¹ Nathalie Prouvez, the Chief at the Rule of Law Section, Rule of Law, Equality and Non-Discrimination Branch at the United Nations Office of the High Commissioner for Human Rights, the conference “Chinese and European perspectives on the rule of law and international law”, 12 December 2012, Brussels.

political, legal and economic heritage in line with the EU's common values" (p. 663). Many scholars and political analysts are sceptical about the emphasis placed by the EU on its identity and the role of values in defining it.¹ Yet, the central role of shared values for further integration with the EU was raised frequently by representatives of both the EU and Ukraine.² For example, an EEAS official commented:

"The issue becomes of course when we see signs of Ukraine *not* respecting certain fundamental principles, including on the rule of law... Well, then of course from the EU side things become problematic. If we get signals that certain – for us *key* – principles are not respected, then you become worried about what we can expect from Ukraine as a partner... We need to see more proof that they [values] are taken seriously." (Interviewee 39)

Moreover, failure on the Ukrainian side to acknowledge the real meaning and significance of values for the EU and for the progress of EU-Ukraine relations is said to constitute a fundamental problem. Like this, a senior EU official with long-lasting experience of working with Ukraine commented:

"If I look at the fundamental thread in our discussion, it is values. And the fact that values genuinely matter. That they are not camouflage for something else. I think Ukrainian government and many Ukrainians may also think that way: that the EU talks about values because we don't really want to have Ukraine integrated, so it is a good excuse... I think this is the fundamental thing where Ukrainians do not understand what the EU really is. It is a community of values. It is something where a Ukraine which does not meet the value criteria is not a Ukraine we can have, because it is not foreign policy, the EU is not foreign policy, it is domestic politics! One rotten apple in a basket..." (Interviewee 51)

Similarly, a Ukrainian diplomat expressed a degree of personal concern and disappointment about the fundamental misunderstanding in the Ukrainian government:

"There are *no* common values with Ukraine... And these are *the key*. Which, by the way, our decision-makers in Ukraine persistently fail to understand: that the material side of the question is *not* decisive! The *ideational* side is!" (Interviewee 49)

¹ The persisting rhetorical emphasis on the values by the EU generated the "normative power Europe" argument and debate between proponents and opponents of the idea (see Aggestam, 2008; Bicchi, 2006; Diez, 2005; Hyde-Price, 2006; Johansson-Nogues, 2007; Lucarelli & Manners, 2006; Manners, 2002, 2006a, 2006b, 2008; Pace, 2007; Scheipers & Sicurelli, 2007; Sjursen, 2006; Smith, 2006; Tocci, 2008; Whitman, 2011; Youngs, 2004). The awarding of the 2012 Nobel Peace Prize to the European Union may revive this debate.

² This point was most forcefully stated by Interviewees 32, 38, 39, 49 and 51.

All other principles – differentiation, joint ownership and conditionality – are built around commitment to shared values. Being mentioned in all EU negotiations, shared values as “buzzwords” have become “a hook on which to hang conditionality”, to quote a senior European Council official (Interviewee 54), and I turn to conditionality in the following section.

Conditionality

The logic of EU engagement under the ENP is that of conditionality, with tools and mechanisms copied largely from pre-accession.¹ The principle of conditionality implies that further economic and political integration with the EU is conditional upon partner state’s progress in the implementation of domestic reforms and action points identified as necessary for bilateral cooperation with the Union. However, the political contexts of neighbourhood and enlargement are too different for conditionality to work in the former. In the absence of a membership mega-incentive, at the political level the two paradigms differ in terms of the nature of obligations on both sides, the leverage the EU enjoys over its partners and the degree of assertiveness it is entitled to. They differ also with regard to the motivation of the partner state – either acceding to the EU or not – to comply with EU requirements. Ukraine’s European aspirations should motivate Ukraine *and* give the EU leverage; however, serious doubts exist about the genuineness of these aspirations and, hence, the real leverage of the EU. At the practical level, neighbourhood and enlargement contexts differ on the type and scope of the work to be accomplished by the partner state, as well as on the scale and nature of diplomatic, financial and technical support provided by the EU. Using the words of Cremona (2004), “what is appropriate for a relationship based on candidacy does not translate easily into a relationship ostensibly based on partnership” (p. 23).

Officials from both sides, the EU and Ukraine, are rather vocal in acknowledging this fundamental difference.² The following two quotes from interviews with EU officials serve an illustration:

“But of course the policies *are* different, so we [the EU] *need* to be careful. In the ENP, you must be much more sensitive in the use of the ‘stick-approach’ and being critical, open, and direct when you want to maintain positive engagement with partner countries. Because, in the ENP, partners always have *other* choices. Unlike in the Enlargement, where the end goal is clear and everyone knows what they want from each other and where they are heading.” (Interviewee 40)

¹ The literature exploring how and in how far the ENP draws on the enlargement and how the concept of conditionality features under the ENP is abundant (see Balfour & Missiroli, 2007; Cremona & Hillion, 2006; Edwards, 2008; Emerson, 2004; Emerson, Noutcheva, & Popescu, 2007; Gebhard, 2007; Kelley, 2006; Kochenov, 2008; Kratochvil, 2006; Magen, 2006; Sasse, 2008a, 2008b; Schimmelfennig & Scholtz, 2008, 2010; Smith, 2005; Tulmets, 2007; Wolczuk, 2009; Zaiotti, 2007).

² Interviewees 6, 7, 11, 23, 32, 40, 42, 46, 49 and 54.

“No, no, no, you can’t compare the two... The objectives and the policies are completely different. I would not compare the two. In the ENP we do not ask partners to align with us and our law, because we don’t care; but we ask them to align with international standards, if there are standards in a given area. But it is then a political concern, political decision and pressure. It is not about the EU legislation as such... But here, in the ENP, we ask, we do not impose.” (Interviewee 46)

As a result, EU conditionality under the ENP is “vague and in flux” (Sasse, 2010, p. 181), if detected at all. This makes scholars look for other explanatory models and definitions. Consequently, with respect to conditionality in the ENP, authors speak of enlargement-lite (Popescu & Wilson, 2009), conditionality-lite (Sasse, 2008a), conditionality at macro- and micro-levels (Casier, 2010), differences between partnership paradigm and conditionality paradigm (Dragneva & Wolczuk, 2012), political and functional, sector cooperation (Bosse, 2010, 2012; Freyburg, 2012) and so on.

The Commission itself recognised the shortcomings of the ENP and tried to adapt the framework by introducing the “more for more principle” and tying financial and technical assistance under the European Neighbourhood and Partnership Instrument to reform progress demonstrated by the partner. Accordingly, “only those partners willing to embark on political reforms and to respect the shared universal values of human rights, democracy and the rule of law have been offered the most rewarding aspects of the EU policy” (Delivering on the new ENP, 2012, p. 3). However, in the absence of a “less for less principle” to complement the “more for more principle”, the latter is expected to have limited effect (Popescu, 2011).

Eventually, the weakness of conditionality in the ENP context limits the potential of the EU to stimulate implementation by the partner state and accentuates the primacy of domestic drive for reform. Moreover, not only the limited political leverage hampers the effects of EU conditionality, but also the cautious and even reluctant application of this conditionality by the EU. At the time of writing, the EU is rather reserved in its reactions to the government’s conduct during the popular uprising in Ukraine, which followed the government’s decision to withdraw from the Association Agreement and its use of violence and repressions against the peaceful protesters later. It remains to be seen whether, in the course of time, EU position will become tougher and lead to the use of sanctions and other tools of influence. So far, however, EU stance confirms the thesis that ‘very important’ does not equal ‘most important’ and that Ukraine might well be the most important country among the ENP states, but its overall importance to the EU does not surpass that of Russia.¹

¹The relativity of Ukraine’s importance for the EU was highlighted strongly by Interviewees 27, 32, 33, 40, 45, 49 and 50.

Concluding remarks

This article analysed the four key principles that structure EU cooperation with Ukraine and other ENP states, namely: differentiation, joint ownership, shared values and conditionality. The article challenged the declared meaning of these principles and explored the peculiarity of their practical application, realisation in the given political context. Empirical evidence reveals that differentiation lies at the core of EU relations with various countries and reduces the ENP to an umbrella for a set of essentially bilateral relationships between the EU and its partners. Importantly for Ukraine as a frontrunner, however, the application of differentiation is limited by the power and fear of setting a precedent, which constrains progress in EU-Ukraine relations. The principle of joint ownership, which applies to both policy formulation and policy implementation, creates potential for partner state's involvement in the formulation of EU policies. Although EU policies remain essentially unilateral and the partner state has no veto power over them, the voluntary basis of cooperation predisposes the EU to consult partner state stakeholders at the early stages so as to facilitate implementation later on. Commitment to shared values, in turn, is a key precondition for a closer and privileged relationship with the EU. Notwithstanding the widespread scepticism among scholars and politicians about the idea of shared values, these are highlighted as the main stumbling block for further progress in EU-Ukraine relations by both EU and Ukrainian policy-makers. Finally, the scope for and the actual application of conditionality in the non-accession context is very limited, which reduces the potential of the EU to transform its partner states and societies and increases the scope for the application of differentiation and joint ownership principles.

By revisiting, critically analysing and specifying the real meaning and scope of the fundamentals of the framework policy that structures EU-Ukraine cooperation, this article makes an important contribution to understanding the limitations and risks in EU-Ukraine relations. This is especially timely now, when their relationship took an unexpected turn and is in need of being reconceived. Overall, the article offers a kind of manual for understanding the four principles for other scholars to use in their own studies of EU policies towards Ukraine and the wider region.

ЧОТИРИ ПРИНЦИПИ, ЩО СТРУКТУРУЮТЬ СПІВПРАЦЮ УКРАЇНИ З ЄС, АБО СУТЬ ЄВРОПЕЙСЬКОЇ ПОЛІТИКИ СУСІДСТВА «СТИСЛО»

Ольга Бурлюк

PhD з міжнародних відносин, Університет Кента, Великобританія/Бельгія

Анотація: Співпраця України з Європейським Союзом відбувається в рамках Європейської Політики Сусідства, і її структурують чотири принципи: диференціації,

сумісного співволодіння, спільних цінностей та умовності. Ґрунтуючись на аналізі документів та детальних інтерв'ю з посадовими особами, ця стаття пропонує критичний аналіз декларативного значення та особливостей практичного застосування цих чотирьох принципів в контексті відносин поза членством. Аналіз особливо своєчасний зараз, коли відносини України та ЄС зазнали неочікуваного для багатьох повороту і потребуватимуть переосмислення незалежно від того, як вирішиться політична криза в Україні. Дані цієї статті є корисними для інших дослідників у їх власному аналізі загальних та секторальних політик ЄС щодо України та інших держав.

Ключові слова: Європейська Політика Сусідства, диференціація, сумісне співволодіння, спільні цінності, умовність

ЧЕТЫРЕ ПРИНЦИПА, КОТОРЫЕ СТРУКТУРИРУЮТ СОТРУДНИЧЕСТВО УКРАИНЫ И ЕС, ИЛИ СУТЬ ЕВРОПЕЙСКОЙ ПОЛИТИКИ СОСЕДСТВА «ВКРАТЦЕ»

Ольга Бурлюк

PhD в международных отношениях, Университет Кента,
Великобритания/Бельгия

Аннотация: Сотрудничество Украины и Европейского Союза происходит в рамках Европейской Политики Соседства, и его структурируют четыре принципа: дифференциации, совместного совладения, общих ценностей и условности. Основываясь на анализе документов и подробных интервью с должностными лицами, эта статья предлагает критический анализ декларативного значения и особенностей практического применения этих четырех принципов в контексте отношений вне членства. Анализ особенно своевременен сейчас, когда в отношениях Украины и ЕС произошел неожиданный для многих поворот, требующий переосмысления отношений независимо от того, как разрешится политический кризис в Украине. Данные этой статьи полезны другим исследователям в их собственном анализе общих и секторальных политик ЕС по отношению к Украине и другим странам.

Ключевые слова: Европейская Политика Соседства, дифференциация, совместное совладение, общие ценности, условность.