

Democracy promotion in Ukraine in the framework of the European Neighborhood Policy

Part One

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Introduction

Ukraine is the largest country in the European Union's (EU) 'Eastern Neighborhood'. The enlargements of 2004 and 2008 made Ukraine the EU's backyard — a country neighboring with four EU states (Hungary, Poland, Slovakia and Romania). It was also in 2004 that the 'Orange Revolution' in Ukraine paved the way for a new optimism about the democratization process in Ukraine. The 'revolution' won support not only of Ukrainian citizens, but also of the EU, which since then has showed weak signs of realignment with Ukraine. In the four years prior to the financial meltdown of 2008-9 that drew Ukraine into a 15,1% GDP slump of 2009, the volume of EU-Ukraine cross-border activities was increasing. The growing size of EU-Ukraine trade after the 2004 enlargement reflected the historical importance of Ukraine's ties with the new member states (especially Poland), and was sustained by a geopolitical rapprochement between the EU and Ukraine under the 'Orange' President Yushchenko's leadership. As of the moment, EU member states are Ukraine's important trading partners, with agriculture, petrochemicals and chemicals, metallurgy, energy and trade in services being the main areas of economic cooperation. Prior to the crisis, EU countries accounted for 27.1% of the country's exports and 33.7% of imports, for a total valued at €39.5 billion. In addition, in 2009, 79% of foreign direct investment (FDI) in Ukraine came from the EU, valued at €21 billion (EurActiv 2011).

Economic relations apart, democracy promotion has been among the main areas of EU-Ukraine cooperation. Its weight only grew after the inclusion of Ukraine into the European Neighborhood Policy (ENP) with adoption of a 3-year Action Plan (AP) in 2005. In consequence of the AP, an Association Agenda was developed to reach a contractual agreement substituting the 1998 Partnership and Cooperation Agreement (PCA). With the establishment of the ENP framework for EU-Ukraine relations, the range of domestic policy areas in which EU became actively involved seeking to promote *acquis* norms has increased. Indeed, it was with the Action Plan that the EU "for the very first time started to affect domestic developments in Ukraine" (Wolczuk 2009: 187). Now, that the Associated Agreement has been agreed upon and is pending signing, it is hijacked by lack of Ukrainian Government's compliance with the EU-promoted norms of liberal democracy and human rights protection. President Yanukovich administration bashed on political opponents, namely oppositional leaders Yuliya Tymoshenko and Yuriy Lutsenko (Lutsenko has recently been released), limited

autonomy of the media and the freedom of protest, turned out unable to secure free elections, and, finally, has abused state authority to channel public wealth to President's kin and cronies. All this highlights the importance of democracy promotion as one of the key principles in EU's relations with Ukraine.

Democracy promotion in Ukraine in the framework of the European Neighborhood Policy

Democracy support in the EU neighborhood is one of the core objectives of the Eastern Neighborhood Policy, launched in 2003. The ENP was devised to cover six countries: Belarus, Moldova, Ukraine, and the three South Caucasian states of Armenia, Azerbaijan and Georgia. Belarus is excluded from the ENP implementation for political reasons. Ukraine has joined ENP in 2004, and democracy promotion objectives stipulated by the February 2005 Action Plan were expected to find an eager support within the 'Orange' Government. Nevertheless, the impact of the EU on democratization in Ukraine has so far remained very limited.

Democracy promotion has a long history in Europe, dating back to the end of 1950s when the Treaty of Rome was signed. Yet, it had not been until the 1990s that political conditionality as a democracy promotion tool was deployed in the EU's relations with its neighbors. The term 'political conditionality' refers to the linkage between European Union's demands to a third country focused on reforms in a certain policy area, and incentives such as subsidies or access to EU funds. Since the adoption of the Copenhagen criteria in 1993, conditionality has been used mostly as a policy instrument in the context of relations with countries candidates for membership in the Union. However, after the ENP enlarged to include Eastern European and South Caucasian states, the use of conditionality extended to relations with countries that had no explicit membership prospects, prompting scholars to dub it "accession conditionality without accession" (Wolczuk 2009: 188). Unlike conditionality applied to the countries that eventually joined the EU, the ENP conditionality has proved weak, for it lacked credible and strong incentives. The case of democracy promotion in Ukraine through ENP is no exception to this. Scholars studying the ENP consent that the EU is a weak democracy promoter in Eastern Europe (for the discussion about Ukraine, see Gawrich, Melnykovska, and Schweickert 2010; Solonenko 2009; Wolczuk 2009; Raik 2006). The scholars contend that rewards and incentives foreseen by the ENP, strong in the policy area of trade and economic cooperation, are blurred and difficult to identify in the domain of democracy promotion and conflict management (Gawrich, Melnykovska, and Schweickert 2010: 1217). This shortcoming weakens the EU's capacity to promote democracy and stability in its neighborhood countries covered by ENP agreements.

In the framework of the Ukrainian Action Plan, there are 12 key areas of democracy promotion, among which: strengthening the stability and effectiveness of institutions guaranteeing democracy and the rule of law with a special attention to a fair conduct of elections; legislative and administrative reforms ensuring deeper and more comprehensive local self-government; legislative and judicial reforms promoting the independence of judiciary and impartiality of prosecution; anti-corruption policies with a special focus on transparency and accountability of administration; promotion of the respect for human rights and fundamental freedoms; fostering of the development of civil society; guaranteeing the respect for the freedom of media etc. In 2007, the EU and Ukraine began talks to develop a new contractual agreement to substitute the 1997 PCA. In, 2010 the Association Agenda was set. It included the same set of priorities in the field of democracy promotion and human rights protection (with a better developed human rights section) as the Action Plan did.

European Union as a weak democracy promoter in Ukraine

Until recently, many would have cited Ukraine as an example of a successful domestic impact of cooperation with the European Union. Pro-European Ukrainian public was especially eager about the prospects that the EU-induced and promoted political stabilization could bring. The integration of Ukraine into the system of European political and institutional standards has been set as a high agenda by both presidents Yushchenko and Yanukovich. Yet, despite the good intentions and apparent political will, Ukraine has walked the EU-drawn path of democratization rather unsteadily, and eventually turned back. The problem, in part, lies in the policy approach chosen by the EU, as well as in Ukraine's internal political and institutional problems that all inhibited Ukrainian Government's capacity to stick to the chosen road of reforms, and walk it until the end.

Ukraine is a post-Soviet Eastern European country that long ago expressed its desire to join the EU. The European Union, in contrast, has limited its policy relations with Ukraine to the framework of the ENP, making no promise of future accession. From the point of view of the ENP design, credibility of EU's intentions has been the main inhibition of its democratization assistance to Ukraine. Success of conditionality as a policy instrument depends on the credibility of the actor imposing the conditions, and on actor's intentions. While the Ministry of Foreign Affairs of Ukraine, especially after the Orange revolution, clearly stated Ukraine's wish to pursue membership in the EU, there was no coherent response on behalf of the EU. Organization's member states gave contradictory signals to Ukraine. New members, especially Poland, have sustained and fuelled Ukraine's desire to pursue the membership in the European club. Some of the old EU members, however, have been wary of nurturing Ukrainian optimism they saw as groundless. Moreover, the EU has been embroiled in the

controversy between the norms and values it propagates in external democracy assistance, and the *realpolitik* it pursues to advance its pragmatic interests. Thus, despite Ukraine is the largest country in the EU's eastern neighborhood covered by the ENP, policy towards the country has constantly been in the shadow of EU's difficult relations with Russia, whereas in Ukrainian politics the EU and Russian are two divergent geopolitical vectors of development.

EU's geopolitical considerations appear to have had more weight in relations to Ukraine, than the goal of democratic development or the rule of law. As seen by Ukrainian pro-European elites, the European Union and its member states demonstrated a persistent lack of credibility with respect to Ukraine, preferring friendly relations with authoritarian Moscow and non-intervention into the sphere of Russian interests in Ukraine, to a full-fledged partnership and cooperation with Ukraine. This has been especially evident in the so-called 'gas wars' between Ukraine and Russia. From the Ukrainian perspective, this duality of European politics, coupled with the lack of a membership prospect, inevitably led to frustration (Gawrich, Melnykowska and Schweickert 2010: 1230).

This frustration hit especially hard after the 'Orange revolution' had generated a widespread domestic and international optimism about Ukrainian democratic consolidation as the basis for closer relations with the EU. At the time, Ukraine was offered to join the ENP that put forward a number of political conditionality clauses that were to actively promote further democratization. Beyond that, the ENP could bring major progress in economic and development partnership between the two actors. This was a considerable advance in the EU-Ukraine relations, since the EU for the first time applied political conditionality towards Ukraine. However, the incentives offered in the Action Plan remained far behind the expectations of the 'Orange' Government led by Viktor Yushchenko and Yulia Tymoshenko, and their allies. Ukrainian politicians and high state officials desperately sought official guarantees that the EU had intentions to let Ukraine in the European 'waiting room'. Contrary to such expectations, the EU was prone to offer mainly economic incentives in form of access to certain European markets. As the Association Agreement was prepared, the situation improved: the Agreement envisaged the Deep and Comprehensive Free Trade Agreement (DCFTA) — a major boost to EU-Ukraine trade. Yet, even with the Association Agreement the incommensurability of ambitions of the Ukrainian elites, who demonstrated the 'everything or nothing' attitude towards EU-Ukraine relations, with policy intentions of the EU considerably weakened the conditionality built into the Association Agreement.

Poor benchmarking without an explicit reference to democratic reforms further undermined the strength of EU conditionality with regards to Ukraine. Another problem was a poor communication of democracy promotion objectives and conditionality to Ukrainian citizens, which did not help to build a constituency for EU-supported democratic reforms. Democracy promotion has mainly targeted Ukrainian elites and institutions. Socialization of European democratic norms and values remained on the margins of the external democracy promotion in Ukraine. People-to-people contacts and support of civil society organizations have been the two main forms of the socialization, and their effects have been limited. Time is to prove how tangible and durable the results of EU-led democracy promotion in Ukraine are. Yet, it is safe to assert now that over the past 8 years the EU has been a rather weak democracy promotion agent in Ukraine, in considerable extent due to the shortcomings of democratization policies themselves.

The forthcoming second part of the article will focus on domestic institutional and political obstacles to the implementation of EU democracy promotion objectives in Ukraine.

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