Ukraine’s Position on European Neighbourhood Policy (ENP) and Prospects for Cooperation with the EU

Dr. Oleksander Derhachov

ENP Country Reports

Friedrich-Ebert-Stiftung
International Policy Analysis
December 2007
Summary: ENP brings Ukraine contradictory results. On the one hand, it allows broader cooperation, and on the other hand it limits future prospects. The different status of EU neighbors and member-states represent real and probably the biggest barrier which divides the Continent. Officially Brussels declares an objective of eliminating such a divide. ENP is not an acceptable alternative to the EU enlargement, it is perceived not as an additional mechanism of cooperation but as an instrument of putting real limits on the prospects of convergence. ENP does not make a fair compensation for the enlargement that objectively complicates development of relations with the new member-states among which there are important partners and allies of Ukraine. The neighbor status puts Ukraine into the ranks of less reformed and not very interested in deeper cooperation countries.

Ukraine needs much time in order to approach the EU membership. The further role, which the ENP will play for Ukraine will depend on the content of the new agreement, new interaction mechanisms, and practical implementation of reciprocity and partnership principles. The key priority task for Ukraine is to speed up effective negotiations on the Agreement on Free Trade Zone with the EU.

This revue is based on the official position of Ukrainian authorities and their individual representatives, who compete with each other, on the results of the non-governmental monitoring of the Ukraine-EU Action Plan implementation, expert evaluation and public opinion polling. The author studies internal political processes, which influence both the perception of the EU in Ukraine and Ukraine’s ability to bring the European choice to reality.

The Ukraine’s attitude to the EU has been defined by a set of circumstances. Ukraine is a European country and it does not like the idea of proving it while attempting to join the EU. There is an opinion that the EU has monopolized Europe and bureaucratizes it but putting limits on the abilities of other countries to pursue their national interests. The countries which missed an earlier opportunity to join the EU can not influence the European integration and are forced to adapt to rules in the design of which they did not partake. Ukraine’s EU aspirations are undervalued and even more, they undermine Ukraine’s position in relations and negotiations with Brussels. The attitude towards Ukraine and the style of interaction with it are far from perfect – the logically asymmetric steps are not always met with reciprocity.

In the course of its relations with the EU Ukraine has accumulated large-scale and complicated obligations to implement democratic reforms and market transformations. For example, Ukraine adapts its legislation to the EU Law in order to make Ukrainian legal system compatible with the EU criteria applicable to states which seek EU accession. But such great intentions are not supported by a capability to implement them. Fulfillment of the simplest obligations of Ukraine towards the Council of Europe has been delayed for decades.

Loitering with WTO accession has been for long time blocking the realization of economic integration opportunities offered by the Partnership and Cooperation Agreement. Generally speaking, there is bad understanding by both Kiev and Brussels of requirements and expectations of each other as well as poor practical efforts made by Ukrainian authorities on the way to European integration.
Role and Efficiency of the European Neighbourhood Policy (ENP)

ENP is not an attractive form of cooperation because it breaches principles of parity and individuality. Ukraine cannot reject cooperation with the EU in the Neighbourhood format but at the outset it indicated that it wanted and deserved something better. Brussels in principle should have differentiated its Eastern European partners, which can become its members, and Mediterranean countries situated beyond Europe. By the same token it should have responded to the fact that Ukraine is its only neighbour which has EU membership aspirations.

In Ukraine the ENP is regarded not only as an additional mechanism of cooperation but also as an instrument to limit possibilities of convergence. ENP is perceived as a policy of diminishing Ukraine’s EU partner status because it puts it among less reformed countries less interested in deepening cooperation with the EU. In terms of citizens’ rights and political freedoms, Ukraine stands alongside Romania, Bulgaria and Croatia and goes ahead of Turkey and countries from the West of Balkans whose chances for integration are better. This increases the number of euro-skeptics among politicians and experts, supplies additional arguments to those who are ready to blame the EU for double standard policy and arbitrary use of membership criteria.

Practical results of ENP are contradictory. The intended means will hardly be instrumental in reaching the aims of the Neighbourhood Policy – political and economic stabilization, modernization and democratization of neighbouring East European and Mediterranean countries. Indeed, modernization and, especially, democratization require a special approach which the EU should only support and promote. It is not accidental that Brussels does not have any rational plan regarding Belarus. In general, the EU aims at insufficient resources and efforts beyond the ENP to reach the above mentioned objective.

ENP cannot even make a conventional alternative to EU enlargement. This issue is of special importance for Ukraine. Moreover, ENP cannot compensate for the enlargement that indeed complicates the development of relations with the new EU member-states, some of which are important partners and allies of Ukraine. Speaking about progress in Ukraine-EU cooperation after the EU enlargement, one should note that it is the result of an active position of the new member-states, such as Poland and Lithuania, which are interested in maintaining and developing relations with Ukraine, rather than the ENP. The individual approach to countries is the only way to improve the situation. But it will ruin the integrity of the ENP. ENP has proven to be not an efficient enough tool for reducing barriers between EU members and non-members. It also does little to promote development of multilateral cooperation between neighbouring countries in particular. In relations with the Eastern-European countries ENP does not work as a system and rather functions as a set of opportunities which is used for the formation of real cooperation programs. In this respect ENP is more important for Brussels than for its partners, because so far it is a mere formality for them.

Ukraine’s attitude to current cooperation with the EU

The authoritarian regime, which ruled Ukraine before the “Orange Revolution”, absolutely contradicted the officially declared European choice. After the change of leadership in 2005 an attempt was made to speed up the development of European Ukraine and breakthrough in relations with the EU. President Yushchenko declared during his visit to Brussels: ”Accession to the EU is the aim of my country, a major task of the new government and my personal objective. We are ready to prove the seriousness of declared intentions by hard everyday work. I want every internal decision in economy or in any other sector to be taken in the European integration spirit.”
After conclusion of the 9th Ukraine-EU summit the President in his speech reiterated that “the strategic objective of the Ukrainian state is EU integration. We will do everything possible in order that European Community, first of all the EU citizens, see in this strategic objective new benefits rather than additional problems. We are convinced that Ukraine is an integral part of political, economic and humane Europe.”

The detailed content of President Yushchenko’s foreign policy is explained in the Report On Domestic Situation and International Position of Ukraine in 2005, which was part of an annual address to the Verkhovna Rada. This document presented a new philosophy of foreign policy based on democratic principles, “…on transparency and openness of authorities, human rights and freedoms, supporting civil society initiatives…”.

Recognition of the EU accession criteria as binding benchmarks and implementation of domestic reforms as the main instrument of European integration is a matter of principle in President Yushchenko’s approach. The Report contained more realistically than early 2005 the terms of fulfillment of “the major strategic task” – EU accession: “If the authorities work hard and persistently, if they are supported by the whole population, and if the intra-EU developments are positive, this aim can realistically be reached within a medium term.” It is important that currently the aim of EU accession is perceived as a consolidating factor for Ukrainian society.

Interaction between the leading political forces after the March 2006 and September 2007 Parliamentary elections demonstrate that elites can reach consensus with regard to the European choice. Attitudes of leading political forces and the most influential leaders, Viktor Yushchenko, Viktor Yanukovych and Yulia Tymoshenko to European integration converge in principle. The level of public support to the EU accession has stabilized at about 55%. But the general political situation in the end of 2007 still is not favourable enough to speed up reforms. This is because the issue of distribution powers might remain the priority in the political agenda until the political reform has been implemented and/or the next Presidential elections have taken place, which will take another two years as a minimum.

At the new stage it is not lack of will of the authorities that put obstacles on the way to convergence with Europe, but mostly objective difficulties of reforms and lack of efficiency of the authorities themselves, their inability to agree neither on the strategy nor on the tactics. Prime minister Viktor Yanukovych has demonstrated his unwillingness to rush with the implementation of the whole set of obligations and plans agreed between Ukraine and the EU. He thinks that the issue of EU accession realistically can be raised only after economy, legislation and living standards in the country have reached European standards. His cabinet has stressed to take Ukraine at the level of EU aspirant countries in 10 years. It is notable that this approach better corresponds with the level of the country’s preparedness than the haste with which Viktor Yushchenko wanted to join the EU. But such “economization” in fact means undervaluing the importance of political and legal reforms and poses a real threat of downgrading relations and spoiling strategic prospects of cooperation with the EU.

The fact that Ukraine has implemented the Action Plan some months before the planned date of completion was not persuasive enough. On the one hand, trade and economic cooperation is growing, a legal basis for relations is developing, and political contacts are intensifying. The most significant results include: growing investments and loans to Ukrainian economy; agreeing the new Action Plan for justice, freedom and security; signing readmission agreements and simplified visa procedures; preparation of “small migration agreements” with Poland, Romania, Slovakia and Hungary aimed at regulating border crossings by residents of border regions.
On the other hand, the qualitative breakthrough in relations has not happened. A significant part of the Action Plan has been fulfilled in a formal way or only in part. The legislative framework is being developed, but laws are inefficient and have many loopholes. Financial and economic limitations hamper implementation of some items of Action Plan including international Conventions, which require substantial costs.

Real progress in structural reforms has not been achieved, administrative reform has not been implemented, and local self-government has not been developed. Special efforts should be aimed at fighting with corruption, shadow schemes, filling the gaps in business legislation, and general dramatic growth of economic freedom. Another extremely difficult problem is how to make the judiciary branch of power really independent and efficient. Moreover, political crises substantially undermined willingness of governmental structures to fulfill their obligations agreed with the EU. Regretfully, the political situation in Ukraine in 2006-2007 did not help to speed up reforms and implement the Ukraine-EU Action Plan in the most efficient way. Similarly, there were no favourable conditions for initiating ENP improvement.

Ukraine’s interests and possibilities to deepen cooperation with the EU

One should remember that Ukraine’s proposals are formulated on the basis of its objective interests, but in a situation where opportunities opened by ENP and Action Plan are not used to full extend. In fact, Ukraine reserves prospects which can be realized through reforms and simultaneously tries to raise its formal status and demonstrate its geopolitical aspirations. Thus, European choice is fully supported by political and diplomatic actions, but not by domestic activities. In view of this, Brussels proposal to prolong Action Plan for one more year looks quite reasonable.

Better use of possibilities to deepen cooperation should, first of all, be tied to growing pragmatism of Ukraine’s policy vis-à-vis EU in response to the Brussels’ pragmatism. The individual variants of such approach are offered by the Party of Regions and Yulia Tymoshenko Bloc, which each have more than a third of seats in the Parliament, and leaders of which seek to substitute Viktor Yushchenko in the President’s office. On the background of eminent WTO accession and reduced capabilities to have opaque business relations with Russia, a pro-European position of influential Ukrainian economic elite becomes more visible. Anyways, Kiev begins to understand that since integration is a remote prospect, it should define its cooperation priorities better.

The key task for Ukraine is to speed up the conclusion of the Free Trade Agreement with the EU. The approach to sector cooperation should become more concrete and demonstrate real interest. Ukraine’s interests, in particular, lay in the fields of setting up a mechanism for an energy security dialogue, streamlining access to the European Investment Bank’s recourses, continued negotiations on a whole set of issues: continuation of the dialogue aimed at simplifying a visa regime and implementation of a visa-free regime as a long-term prospect; reaching a balance of border regimes; improvement of a readmission mechanism. Some of these issues should be discussed with participation of Russia or in view of its position. ENP can promote a geo-economic concept of Ukraine as a transit state, which is currently en vogue in Kiev.

Security is a promising area of cooperation. It should provide for broader approaches within the ENP and more active engagement of Ukraine into cooperation within the EU Common Foreign Policy. Ukraine has a serious potential for participation in local conflicts resolution and crisis management. Security cooperation can and should be increased.
Germany, Poland and Lithuania have made important proposals on reforming ENP. EU Commission’s intentions are to put more emphasis on trade liberalization and deepening of cooperation in transport and energy sectors. Everything connected with the new European Neighborhood and Partnership Instrument, especially its aiming at development cross-border and regional cooperation between Ukraine and EU member-states, gets an extremely positive response. Special interest of some EU member-states to a more active “EU’s Eastern Policy” also should be supported.

Further importance of ENP for Ukraine depends on the content of the new Agreement and mechanisms of cooperation. At the same time, the efficiency of the Agreement will be undermined by lack of consensus in the EU with regard to possible Ukraine’s accession and by the great amount of reforms which Ukraine has to implement in order to meet the Copenhagen Criteria. The September election for the first time set up a stage for positive development of interaction between the Verkhovna Rada of Ukraine and the European Parliament.

Russia’s influence

Russia’s position as a separate center of gravity puts all the Eastern European countries into a situation where they face a choice. It is even more so because Russia persistently emphasizes and promotes its own system of values and rules of international relations. Currently, we have all the grounds to speak about formation of the Russian neighbourhood policy towards the post-Soviet states.

After the “Orange Revolution”, Ukraine has finally chosen the European model of nation development but it is not able to anchor it in a geopolitical sense. Belarus will face a similar situation in the future. The EU should have taken into account that the status of its neighbours, which are heavily influenced by Russia, is not clear and unacceptable and can not last long. Seeking stability on its borders, the EU should assist in overcoming that indefiniteness. There is only one answer to the question about what should be the Eastern border of Europe – it could only be the border with Russia.

EU policy vis-à-vis Russia remains inconclusive and incoherent; it includes substantial elements of hesitations and even adaptation to Moscow’s behavior. In its turn, Russia accumulates arguments in order to promote its own interests and to impose on Europe its own vision of how market and democratic mechanisms should function.

The situation in the triangle EU – Ukraine – Russia is very contradictory. Russia is pursuing the information and propaganda campaign aimed at presenting the EU as the project in a state of permanent crisis and without any future. Formally, Russia has not expressed its dissatisfaction with Ukraine’s intentions to join the EU (unlike a reaction to the similar ambition to join NATO). But Russian policy towards Ukraine includes putting stumbling blocks on its way to European integration. Kiev, in its turn, regards European and Euro-Atlantic integration as a means of getting rid of heavy Russian influence. In this sense it would be very important to formalize membership prospects, while Brussels refusal to recognize these prospects pushes Moscow towards implementation of its own projects of Ukraine’s reintegration.

Ukraine is interested in having European type relations with all its neighbours, most importantly, with Russia. It does not seek direct EU support in situations of tension with Russia, but it feels that it is extremely important that its interests are not ignored in agreements between Brussels and Moscow. It also should be taken into account that implementation of the “Four Common Spaces” idea, which is being discussed by the EU both with Ukraine and Russia, should be realized either jointly or in coordination.
Prospects

Forecast for 2020 can be based on recent trends and developments. It is quite obvious that the conventional alternative to European integration of more Western Newly Independent States will change radically. Integration in the CIS format will finally fail and geopolitical integrity of the region will dilute. Cultural and civilization independence of post-Soviet states will increase and their economic and geopolitical relations will become more differentiated. Differences in social and political values of elites and populations will increase as well as in levels of democracy. Authoritarian domestic trends in Russia, Kazakhstan and Central Asia will fully take firm grounds. All the other post-Soviet countries, following the logic of their development, will aspire for some form of EU integration.

Models of development, which Belarus president Lukashenko has been implementing, are obviously exhausting. On the other hand, the weak opposition is not able to set up democracy in the country in short term, as well as to aim Belarus to convergence with Europe. Moldova will feel stronger Romanian influence, which de-facto will create a situation of discreet accession to the European Community. But in view of a need to bring back Transnistria, Chisinau will reserve from declaring a clear strategy. Pro-Western aspirations, in particular pro-European ones, will become a permanent factor of the South Caucasus countries foreign policies. The role of ENP will strengthen through its enlargement to Azerbaijan, Armenia and Georgia.

In order to really converge with the EU, Ukraine needs more time. Possibly, within the next ten years the new Agreement will give the final answer to the question about developing cooperation into integration.

The division of the post-Soviet territory into European and Eurasian parts will be supported by sub-regional groupings. The Eurasian Economic Community (EurAsEC) has prospects for development as well as bilateral relations between the countries of the region with Russia. Reanimation of CES (Common Economic Space) seems to be improbable.

Russia’s plans to take Central Asian and Kazakhstan oil and gas production and transportation facilities under control can make a long-term impact on the European economy. To this end Ukraine has all the grounds to count on more attention from the EU to its energy sector interests, which are fully compatible with common European interests.

An important component of the forecast is the evaluation of migration processes which still have not been regulated effectively at interstate level but could become a focus of attention for ENP. These processes have already raised an issue of civilization integrity of the continent. Meanwhile, it is clear that a more active role of Eastern European countries is more acceptable than growth of the Moslem component. Nowadays, when preparation to the introduction of the European “Blue Card” is in progress, special conditions of its application to citizens of neighbouring states should be defined.

Dr. Oleksander Derhachov,
Institute of Political, Ethnic and National Studies,
National Academy of Sciences of Ukraine