

EU policy towards the Eastern neighbours: a new wave of improvement

The Open Society Foundations (OSF) have local offices in all of the Eastern Partnership (EaP) countries except for Belarus, and many thematic programmes working on human rights and governance. OSF spends around \$50 million per year in six EaP countries, mainly funding civil society organisations (CSOs) and, exceptionally, government capacity-building.

We believe that the EU's engagement, with a toolbox largely drawn from the enlargement policy, is the best framework for promoting political reform in these countries, particularly when it is coupled with clearly articulated conditionality. The EU's efforts to strengthen prosperity, stability and security in its neighbourhood would be enhanced by: increased incentives for partner countries; clear benchmarks for conditionality; an enforced system of monitoring implementation of reforms; more effective funding; and empowering local civil society to hold governments accountable. This note sets out the main lessons learned from our experience in the region.

1. Use wide-ranging and strict conditionality: To achieve change through conditionality, the EU has to increase its explicit incentives and disincentives.

Although full EU membership is currently off the table, this should not deter the EU from making more regular references to Article 49 of the Lisbon Treaty. It could mobilise some short-term political will but has to be matched by more creative use of the EU's second-tier incentives, particularly travel liberalisation and funding.

The "Visa-free Action Plans" provided to Ukraine and Moldova are effective tools if the EU insists on timely and substantive implementation of commitments regarding judicial reform, border management, data protection, non-discrimination and so on. They can bring concrete results to citizens even before actual visa liberalisation occurs if credible conditionality is used. Financial assistance could also be used more often, more publicly and as part of both positive and negative conditionality. It can be exercised through the promise of more resources or withholding allocations if the country does not follow jointly agreed benchmarks or regresses on meeting standards. This proved to be a successful strategy in Ukraine when the EU withheld budget support for months and convinced the government to consult CSOs and take into consideration their proposals for the environmental strategy in 2010.

Greater publicity of EU conditions and rewards would bring increased domestic support to reform-minded governments, and also reinforce public scrutiny and public pressure on those governments that are lagging behind.

2. Provide clear commitments and tangible benchmarks: A growing number of bilateral documents provide commitments to democratisation, but their enforcement is difficult. EU conditions and demands are too vague, while the EU does not provide benchmarking and deadlines are not enforced. This can be seen in the Action Plans, and the new generation of Association Agendas fail to provide clearer guidelines. An OSF-funded report noted that the Ukrainian government has implemented only 8 out of 70 areas outlined in the Association Agenda as priority reforms for 2010.¹ The Ukrainian government invoked ambiguity of EU demands as a reason for non-implementation.

A new kind of document is needed – a detailed guidebook with benchmarks and timelines – citing short- and medium-term priority actions (modelled on European Partnerships used for Western Balkan countries), accompanied by detailed annual implementation tools.

¹ For civil society monitoring of Ukraine's commitments towards the EU see *The 3rd interim report by civil society monitoring of implementation of EU-Ukraine Association Agenda priorities*, 2011: <http://es-ukraine.blogspot.com/2011/03/ukraine-fell-short-of-implementing.html>

3. Increase Commission capacity to monitor and report progress: The current monitoring process is quite formulaic and superficial, and ill-suited to guide the countries towards deep and sustainable reforms. Governments have learned how to circumvent EU criticism by formally adopting required legislation, but not enforcing its actual implementation. The EU should not wait until the publication of annual progress reports to make its criticism heard. A good example of effective close monitoring and reaction was Ukraine's public procurement legislation. EU public statements at various stages of adoption and implementation coupled with delaying financial disbursement persuaded the government to review and adopt legislation closer to EU standards. A poor example is the Commission/EEAS's abstention from making any public statement concerning the Moldovan Parliament's refusal to adopt anti-discrimination legislation as required by the Action Plan since 2005.

A more regular and qualitatively improved monitoring and reaction system would require greatly increased capacity of the EEAS and the EU Delegations on the ground.

4. Consider local civil society as partners in holding governments accountable: Governing elites have postponed democratic reforms recommended by the EU for as long as their cost-benefit calculations have shown the risk of losing power in a fair electoral system. To increase pressure on the governments to adopt crucial reforms, the EU should engage and empower local civil societies. If the EU is serious about raising government accountability then the top-down approach has to be complemented by bottom-up empowerment. The dividend will be greater societal awareness and active civil society participation in governance. A positive example is the EU's support for CSOs' monitoring of media coverage during the 2009 elections in Moldova, which put pressure on the Central Election Commission to intervene on several occasions when the rules were ignored by the government-controlled media. Unfortunately only around 1.4% of EU funding going to the Eastern neighbours supports the efforts of civil society organisations.²

The new Civil Society Initiative should support CSOs' watchdog activities, grass-roots initiatives and CSOs' participation in reform processes. The EU needs to adjust its aid mechanisms considerably to make it more user-friendly for CSOs and reduce the bureaucratic burden.³ The EU could apply the Phare model previously used in the candidate countries and deliver assistance to CSOs through national civil society development foundations. Where this is not possible, delivering aid through an independent European Democracy Foundation deserves serious consideration.

5. Prioritise constitutional and electoral reforms: Although the rhetoric of partner governments is all in favour of European integration, local political elites move away from democratic reforms whenever they threaten the government's power base. The examples of Ukraine and Moldova show that unless the EU pushes and helps to resolve fundamental issues of state power, fair electoral rules and the independence of judiciary, efforts to improve governance will continue to fail.

The EU can insist on concrete conditions related to crucial constitutional and electoral reforms, drawing on the expertise of the Council of Europe and the Venice Commission. The EU should penalise procrastination on reforms, including by withholding financial support.

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April 2011

² OSI-Brussels' estimation of the average figure for 2007-2009 is that varies from 0.3% of EU funding in Ukraine, 2% in Azerbaijan, Georgia and Moldova, 3% in Armenia and Belarus.

³ More details on adjusting the EU Financial Regulation are available in *Striking a Balance: Efficiency, Effectiveness and Accountability*, report by F.M. Partners Limited on behalf of OSI-Brussels, Concord, the Social Platform, SOLIDAR and the European Women's Lobby, 2005.