

Assessment of the 25 May 2011 Joint Communication from HR/VP Ashton and the Commission, "A New Response to a Changing Neighbourhood".¹

June 2011

A welcome EU response to its changing neighbourhood that deserves endorsement by member-states

The European Commission and the European External Action Service (EEAS) have developed some valuable proposals for improving the European Neighbourhood Policy (ENP). In particular, the Joint Communication includes a stronger emphasis on civil society, more differentiation between countries and greater political steer. It also contains some elements that formed part of previous policy but had not been fully implemented. Reiterated concepts such as visa liberalisation, Deep and Comprehensive Free Trade Areas (DCFTA), Comprehensive Institution-Building (CIB) programmes and tackling regional disparities will only gain traction if the EU applies its conditionality more consistently. OSI-Brussels has highlighted the positive steps that EU member-states should support in their Council Conclusions in June, and noted those elements that remain open questions.

POSITIVE STEPS

1. Differentiation and Conditionality

The differentiation and conditionality duo have been part of the EU policy since its inception; however their application has been *ad hoc*. The Communication gives more clarity on what "more-for-more" entails. By listing the five key elements of "deep and sustainable democracy", stating their requirement as the main benchmarks for assessing progress, and therefore resource allocation, puts the ENP on the right track towards more coherence and effectiveness. The EU will have to define in specific detail the national requirements in each area in order to differentiate between countries. Nevertheless, the intention to strengthen the link between the reported progress and the level of assistance is welcome. For this shift in approach to be implemented, the EU will have to enhance its monitoring and progress reports, to inform both its decision making and funding mechanisms better.

2. The Civil Society Facility (CSF)

The proposed Facility will be much welcomed by civil society in both the South and East. Estimates by OSI-Brussels suggest that only approximately 1.4% of EU funding going to the Eastern neighbours supports the efforts of civil society organisations (CSOs). This average figure for 2007-2009 varies from 0.3% of EU funding in Ukraine, 2% in Azerbaijan, Georgia and Moldova, 3% in Armenia and Belarus. To

¹ Brussels, 25/05/2011, COM (2011) 303: http://ec.europa.eu/world/enp/pdf/com_11_303_en.pdf

reach the ambition of at least doubling this figure in the short-term would require an allocation of at least 25 million euro for 2011-2013 to the CSF in the East alone.

The CSF should be complementary to existing instruments and support civil society watchdog activities, grass-roots initiatives and CSO participation in reform processes. To build civil society ownership of the Facility, the EU should actively engage and consult the Eastern Partnership Civil Society Forum and relevant platforms in the South during the CSF programming period. It should also take into consideration the lessons learned from equivalent efforts in the enlargement countries. In particular, the EU needs to adjust its aid mechanisms considerably to make them more user-friendly for CSOs and to reduce the bureaucratic burden on small and often new organisations. In its search for improving access to funds, the EU could apply the PHARE model used in several candidate countries, and deliver assistance to CSOs through national civil society development foundations. This would require changes to the EU Financial Regulation to allow the delegation of larger scale re-granting. In order to boost capacity of civil society organisations, the EU will need greater capacity in its own delegations to manage the larger flow of money.

The creation of the CSF is a welcome statement of support for independent civil society which will need consistent backing. Where there is a threat to CSOs, for example through restrictive NGO laws, the EU should send a strong political signal that it supports independent civil society and specifically use the CSF to facilitate support for CSOs regardless of their registration status.

3. European Endowment for Democracy (EED)

Where the CSF is not able to provide support directly and independently to CSOs, delivering aid through the proposed EED deserves full member-state endorsement. Allowing much-needed, non-discriminatory support to democratic political actors will fill a gap in current EU funding. In no way should this affect the current level of funding through the European Instrument for Democracy and Human Rights (EIDHR).

Funding through the CSF and the EED should be allied to the “deep democracy” concept outlined in the Communication, and in particular core political rights, freedom of association and expression, assembly and right to fair trial. Differentiation between the various instruments in development is urgently needed as more funds become available. Their complementarity is not in doubt, but the division of labour between them requires clarification.

In its initial launch phase, the geographical scope of the proposed Endowment's activities could focus on the neighbourhood, where the EU has most expertise and immediate interests. A useful remit for the Endowment would be to act as a rapid reaction mechanism in countries immediately after a regime change that sets them on a path towards democracy. The new Endowment could also help to define the values content of EU strategies towards the countries where democracy and human rights are most at risk, so that the EU's interests and values are better integrated in external policy.

Ideally, the Endowment should unite bilateral and EU contributions, develop coherent strategies for spending them well in collaboration with local partners, and regularly evaluate their effect in target countries. To reduce the enormous bureaucratic burden that the current financial regulations impose on civil society beneficiaries of EU aid, the Endowment should be set up as an independent body with more flexible funding rules than current instruments. If the member-states cannot agree on establishing it as a separate entity, the EED could start up as a coordination mechanism for member-states' bilateral contributions for democracy support, and expand its remit over time.

4. Action Plans with more precise benchmarks

More precision in the plans will make the implementation and enforcement of commitments more effective. The first generation of Action Plans provided vague guidelines and commitments that were

repeatedly rolled over without evidence of progress. Unfortunately, the new generation of Association Agendas have failed to improve the situation. An OSF-funded report² noted that the Ukrainian government has implemented only 8 out of 70 priority areas outlined in the Association Agenda as priority reforms for 2010. The Ukrainian government blamed the 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 Balkans countries), accompanied by detailed annual implementation tools.

5. Additional resources

Additional resources to the East and South will help boost the policy. The current system of country allocations within a seven-year framework is inadequate. It does not allow enough flexibility in using conditionality and greater differentiation linked to progress. The funding allocations should allow its use as an incentive and reward for best performers. Linking funding to priorities identified in Action Plans is a positive move.

6. Discontinuing the Governance Facility (GF)

The initial idea of the GF was good, but it failed to serve as an effective incentive. There was little money and the EU was not able to spell out the criteria nor able to use it openly in public communication. Removing these shortcomings, rather than its discontinuation, would have been a better option. The Commission should integrate these lessons learned into the upcoming Communication on budget support and the planning of funding beyond 2013.

OPEN QUESTIONS

1. Article 49 of the Lisbon Treaty

We welcome the Joint Communication's brief reference to Article 49, although the final wording in the Communication does not indicate full recognition of the right of the EU's European neighbours to apply for membership. Although accession to the Union is currently off the table, this should not deter the EU from making more regular references to Article 49. Such references mobilise political will among reform-minded governments and they can be used by political elites to secure greater public support for reforms. The member-states will have a great opportunity to highlight Article 49 at the Eastern Partnership Summit in September: let's hope they use it.

2. Progress reports

The process for monitoring progress remains formulaic, superficial, and ill-suited to guide the countries towards deep and sustainable reforms. The reports need to be more detailed and more critical. Given the comprehensive nature of the reports, they should highlight a few priority areas where more progress is expected in the following year. The reports also need to be communicated to the political elites and through local media better so that the public can understand them. Then the reports could become political tools for progress rather than a technocratic dialogue between EU and national bureaucracies. A better monitoring system and enhanced communication of the progress reports would require a major increase in the capacity of the EEAS, including the EU Delegations in the neighbouring countries.

3. Human rights dialogues

They have so far failed to play their promised role in improving human rights in most partner countries. The dialogues can even marginalise human rights concerns when they eviscerate the high-level political dialogue among politicians. The proposal in the Communication to reinforce the dialogues with a follow-up mechanism on commitments is positive. But human rights concerns should feature on the agenda of

² Available at: http://www.scribd.com/full/54763153?access_key=key-2gwwnuepyj1s1tnbno7k

every political meeting between the EU institutions or member-states with partner governments, and the results of those discussions should be communicated to the public. The EU could usefully align the priorities of the human rights dialogues with the human rights country strategies currently being considered by the EEAS by having foreign ministers approve them. This would play an important role in mandating EU delegations to act on political issues.

4. Civil society monitoring of EU funding

The upcoming Communication on budget support should explicitly commit the EU and partner governments to open up the support to CSO monitoring. The current programming documents provide for such a possibility, but in most cases it is ignored by the partner governments and it is rarely enforced by the EU. The CSF could provide dedicated funding to such watchdog activities of CSOs. Good governance and improved socio-economic standards have to start at the level of basic transparency and accountability. Improved support for CSO monitoring of EU funding and national budgets would be a good first step.

5. Enhanced public diplomacy

The EU institutions mainly communicate and agree deals with partner country officials. Governments tend to filter the information to their constituency to suit their own interests – in many cases contributing to confusion about the goals, demands and rewards set by the EU. Some worrying examples include the increase in negative sentiments within Ukrainian and Georgian societies against DCFTA, and negative public reaction to anti-discrimination legislation in Moldova demanded by the EU. To shape demand for reforms from within countries, the EU should reach out directly to the public, by clearly explaining the EU's goals, policies and concerns to individual citizens, especially youth and young leaders, CSOs, the business community, social partners and the media. German public diplomacy is a good model to follow. This should be reflected in the forthcoming public diplomacy strategy for the ENP region.

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The Open Society Foundations (OSF) have local offices in many of the EU's neighbouring countries, working through national foundations or regional offices supporting justice, media, health, education, human rights and good governance. For nearly three decades the OSF has worked to promote vibrant and tolerant democracies. Today, we run programmes in more than 70 countries.