

"Five questions about democracy and human rights promotion in the EU's neighbourhood"

Discussion Paper

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From the very inception of the European Neighbourhood Policy (ENP), the promotion of democracy and the rule of law has been a major goal shaping the policy's structure and contents. However, democratisation in the partner countries has been remarkably slow, and, indeed, sometimes democracy suffered long-term setbacks. What are the reasons that lie behind the meagre results of the EU's objectives in this area? Although the precise nature of this development will be certainly subject to the close scrutiny of this working group, I believe that we can preliminarily identify at least five questions which point to possible reasons for the disappointing results of the policy.

1. Is there a clear hierarchy among the policy's objectives?

The first and foremost problem lies in the genesis of the policy itself. While certainly aiming at democratisation and the gradual introduction of the rule of law in partner countries, the policy also declares two other overarching goals - ensuring economic prosperity and securing stability in the EU's neighbourhood.ⁱ Although all of these goals are desirable, it is doubtful whether they can all be attained at the same time. In particular, the goal of stability frequently stands in contradiction to substantial democracy promotion. As a result, the EU often hesitates in deciding whether to "engage in a constructive dialogue" with the governments, hence stabilising the established regime, or rather support the opposition parties with more democratic credentials. This is so across the Southern ENP partner countries, and the same is palpable in countries like Azerbaijan, Armenia, or Moldova, not speaking about Belarus.

2. Are the policy's incentives sufficient?

Although the attractiveness of the EU's model of governance is undisputable, the exclusive reliance on the EU's soft power does not seem to be sufficient, in particular since the accession is currently not an available option. Unfortunately, even though the financial allocations for democracy and rule of law usually amount to 30 percent of the total country-specific ENPI budgets, the absolute amounts are relatively modest. To give just one example, in Georgia, the criminal law reform alone (which is part of the democracy and rule of law priority) is estimated to cost more than 130 million Euros, while the contribution of the EU for the period of 2007-2010 for all priorities is only 120 million Euros.ⁱⁱ Although it is true that there are also special instruments which deal with democracy and rule of law, such as the Governance Facility, their budget is also rather limited, and their motivational power is

further reduced by unclear criteria and by the suspicion that the Commission's decisions on allocations are rather politically motivated. To sum up, weak incentives, combined with high adaptation costs, make any success in the area of democracy and rule of law promotion improbable.ⁱⁱⁱ

3. Can democracy be promoted indirectly through the rule of law?

The third problem is related to the focus on both democratisation and the rule of law. As Commissioner Ferrero-Waldner herself stressed, "democracy can look very different from one country to the next".^{iv} This, coupled to different levels of democratic standards in individual countries and to the political sensitivity of the "democracy talk" in the Southern ENP countries, translates into grave difficulties in evaluating the democratisation in these countries. Therefore, it is questionable whether the double-headed approach should not be replaced by a more focussed strategy, assessing solely specific measures in the rule of law area. Reforms of the rule of law (judicial reform, public administration, anti-corruption measures, support for civil society, etc.) are clearly more acceptable to the partner countries than abstract criteria of democracy, and their measurement is also much more stringent, hence reducing fears of political manipulation on both sides. In addition, many of the provisions in the rule of law area feed directly back into improvements of general democratic standards.^v

4. Should not the EU's soft approach be complemented by "harder" measures?

The EU's democracy promotion has been traditionally built around "soft" measures. The two key strategies used are socialisation and conditionality. Both of these rely on the willingness of other countries to cooperate with the EU rather than on pressure from the EU. However, the EU remains helpless vis-à-vis those countries that are not eager to be socialised into EU's norms and practices (such as Belarus), those that do not need EU's financial assistance and are hence indifferent in regard to the conditionality principle (such as Azerbaijan), or those that are unconcerned about either of these matters (such as Russia). Although the ENP has been continuously stressing the principle of mutual ownership and positive engagement of the countries involved, the question arises whether the EU should not consider also the option of "harder" measures with those countries that persistently violate basic principles of rule of law and resist the instruments provided for by the ENP. Economic sanctions are a clear option that has been widely discussed (e.g. the suggestion by the European Parliament in the case of the Palestinian Authority and Israel; Belarus, Libya, etc.).^{vi}

5. How does the geographical scope of the policy influence its impact?

The final element detrimental to democratisation in the EU's neighbourhood is the policy's unfortunate geographical coverage. First, there are huge differences in the perception of the human rights agenda in the South and in the East: The Southern partner countries, with their much stronger objections to democratisation and, indeed, their tabooisation of the human rights agenda, require a different approach than the EU's Eastern neighbours, where the difficulty lies not in the discussions about democratisation but rather in its effective implementation. This difference is particularly pertinent in regard to the negative conditionality mentioned in the previous paragraph, which has been rejected several times by Southern EU member states in the framework of the Barcelona Process and which, as a consequence, can be applied in the ENP only with great difficulties. Second, the artificial rupture between the EU's policy toward Russia and the other neighbours also diminishes the EU's credibility in democracy promotion since the EU can be rightly accused of a double standards neighbourhood policy.

ⁱ For the shortest summary of these goals, see The European Neighbourhood Policy, http://ec.europa.eu/world/enp/faq_en.htm#1.1

ⁱⁱ European Neighbourhood and Partnership Instrument, Georgia, National Indicative Programme 2007-2010, http://ec.europa.eu/world/enp/pdf/country/enpi_csp_nip_georgia_en.pdf

ⁱⁱⁱ Cf. Schimmelfennig, Frank: European Neighborhood Policy: Political Conditionality and its Impact on Democracy in Non-Candidate Neighboring Countries, Paper prepared for the EUSA Ninth Biennial International Conference, Austin, March 31-April 2, 2005, http://aei.pitt.edu/3302/01/European_Neighborhood_Policy.txt

^{iv} Speech by B. Ferrero-Waldner: The European approach to democracy promotion in post-communist countries, 19 January 2006, http://www.europa-eu-un.org/articles/en/article_6708_en.htm

^v Cf. a similar argument in Tocci, Nathalie (2008) Can the EU Promote Democracy and Human Rights Through the ENP? The Case for Refocusing on the Rule of Law, paper presented at the annual meeting of the ISA's 49th annual convention,

http://www.allacademic.com/one/www/research/index.php?cmd=www_search&offset=0&limit=5&multi_search_search_mode=publication&multi_search_publication_fulltext_mod=fulltext&textfield_submit=true&search_module=multi_search&search=Search&search_field=title_idx&fulltext_search=%3Cb%3ECan+the+EU+Promote+Democracy+and+Human+Rights+Through+the+ENP%3F+The+Case+for+Refocusing+on+the+Rule+of+Law%3C%2Fb%3E&PHPSESSID=ee3697ccf20abbec6e6fdf0e83945341

^{vi} Emerson, Michael et al.: The Reluctant Debutante: The European Union as Promoter of Democracy in its Neighbourhood, CEPS Working Document, http://shop.ceps.eu/BookDetail.php?item_id=1242