

# Towards Multi-level Security Community Building: The EU's and Norway's External Governance in Ukraine

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## Introduction

The initial objective of the European Neighbourhood Policy (ENP) was to expand the European zone of peace beyond the EU's borders through processes of external governance. It was seen as an instrument for promoting security in the region through processes of integration and association. Although initially developed as a rather coherent policy, it has over the years become something very different. In a newly published NUPI Working Paper (Batora & Rieker 2015), we examine what these changes actually entail. Our main argument is that the framework of the European Neighbourhood Policy – the lead framework of the EU's external governance – has been developing from the original concept of a set of rationally planned processes coherent across countries of this Neighbourhood, towards a complex and ambiguous set of 'garbage can' type of processes (Cohen et al 1972) in individual countries.

Focusing on Ukraine, we find that the original model of a rational process, with detailed action plans, monitoring, reporting and progress assessment of reforms, has given way to a set of loosely coupled processes involving various interests, problems, solutions and decision-making situations. EU institutions and EU member states are involved in various forms of engagement with Ukraine, resulting in complex and often loosely coupled forms of adaptation. Nevertheless, Ukraine is experiencing unprecedented levels of extensive transformation processes connecting its various societal segments with the EU.

Based on this analysis, we offer a novel conceptual understanding of the EU's neighbourhood policy incorporating the ideas of ambiguity and bounded rationality. In this policy brief, we will analyse the potential implications of this change for the EU's external governance and thereby also the Union's security community building process as well as Norway's contribution to these processes.

## The idea of ENP as rational external governance

The ENP framework was introduced in 2004 as a by-product of the EU's 'big-bang' enlargement. A main motivation for introducing the ENP was the desire to prevent major rifts from emerging between countries that were invited to join the EU and other East European countries. The idea proposed by Romano Prodi was to have these neighbouring countries take part in European governance, with access to 'everything but institutions' (Prodi 2002). To this end, countries were asked to undertake comprehensive reforms of their economies and governance systems in exchange for gradual deepening of their ties with the EU and growing attachment to EU policy fields.

This ENP had two major characteristics. First, it was a process aimed at creating a 'ring of well-governed countries' around the enlarged EU. This entailed putting all countries encompassed in the ENP framework under one more-or-less coherent set of conditions, processes and procedures of external governance. The second characteristic of the original model was its highly rationalistic and rationalizing nature. The EU followed the same comprehensive pattern institutionally, legally and in terms of policy contents in all the countries concerned.

Then the methodology applied by the EU was built around a standardized model consisting of two elements. First, at the core of relations with each ENP country is a *contractual agreement* that is a prerequisite for signing Partnership and Cooperation Agreements (PCAs) in Eastern Europe, and Caucasus and Association Agreements (AAs) in the South. Second, based on these agreements, individual *ENP Action Plans* were developed with each of the ENP countries. These are standardized documents of about 35 pages that follow the same structure in all countries and focus on a relatively uniform set of topics for collaboration and governance reform. ENP Progress Reports would then provide a regular opportunity for monitoring the developments and assessing the degree to which the goals and targets

in the Action Plans were met. The European Commission and its Directorate-General for Enlargement and Neighbourhood Policy has been taking the lead in the management of these processes, in cooperation with the External Services of the Commission and, following its establishment, the EEAS. In principle, the overarching idea when the ENP was launched was to have *a well-defined and orderly set of transformation processes to lead these 'neighbourhood' countries towards EU-oriented standardization of their legislative systems and governance that would allow them to share 'all but institutions' with the EU.*

### **ENP turning into a flexible process of external governance**

Since 2011, the ENP has been revised and it has gradually become a more complex and ambiguous process. We will here highlight four factors that clearly illustrate this change. First, while the ENP framework uses similar instruments as the process of EU enlargement, the central component of the latter – the prospect of full EU membership – is missing. That makes the ENP profoundly ambiguous in its aims and nature of relations with the countries in the neighbourhood. Partly as a result of this, countries encompassed in the ENP framework have varied in their preferences concerning attachment to the EU. Since 2011, the EU has been applying an increasingly differentiated and bottom-up approach towards the partner countries (EU 2015a,b). This shift has to do with the fact that ENP countries have been subject to a rather divergent set of domestic processes, putting them on diverging paths in their relations to the EU over the past decade. While the 16 ENP countries remain grouped together within the same framework, there is a clear difference emerging between the nature of relations to countries in the Eastern Neighbourhood and the countries in the EU's Southern Neighbourhood. While the latter do not aspire to EU membership, some of the former do, and that also influences the level of ambitions in reform processes (Rieker 2016). Moreover, while some ENP countries, like Georgia, Moldova and Ukraine in the east as well as Morocco and Tunisia in the south, have been seeking closer relations with the EU, consistently implementing various kinds of reforms to achieve this, other countries, among them Armenia, Belarus and Azerbaijan, have shown decreasing interest in deeper relations with the EU and have been seeking to develop a more detached form of relationship. The macro-level dynamic of how neighbouring countries form their relationships with the EU is highly diversified.

Second, the EU and its member states are beginning to become more attentive to the geopolitical context (concerning relations with Russia in particular) in developing their approach to the neighbourhood (Rieker & Gjerde 2015). The interests of the 'neighbours of the neighbours' are increasingly recognized as a factor to be reckoned with. Compared to its original meaning when introduced by the European Commission in 2006,<sup>1</sup> the concept today encompasses also the interests of Russia and other major geopolitical players in the neighbourhood. This shift is supported by a growing acknowledgement of the need to shift towards a more geopolitical approach to the EU neighbourhood (Fischer 2015). Third, the ENP framework was designed in an ambiguous way, leaving room for manoeuvre for member states to accommodate their specific interests within the policy

framework. Among other things, the question of whether the possibility of full membership should eventually be granted to neighbouring states has been perceived differently by the original member states and by those that have joined the EU since the 1990s (*ibid.*). In general, the latter states have been most supportive of keeping alive the prospect of further EU enlargement to the East. As a result of this ambiguity, EU member states continue with varying and parallel strategies in their relations to the countries of the neighbourhood. Despite similarities in member-state rhetoric in relation to ENP countries, the goals pursued in practice often differ.

Finally, within ENP countries, implementation of the reforms identified in the individual 'ENP Action Plans' and 'ENP Progress Reports' has not necessarily been a straightforward rational exercise. This means that the EU has been assessing various formal indicators in the countries of the Southern Neighbourhood to measure their performance in democratic reforms, but that these indicators have not really assessed actual progress made. Also, reform processes aligning governance structures with the EU have progressed well in some governance sectors, while there has been less progress in others (Bátora and Navrátil 2016). Alternative sources of reforms have also played an important role. Non-EU countries like Canada, Japan, Norway and the USA as well as international actors such as the World Bank have been involved in supporting reform processes in the EU's neighbourhood, often with their own specific agendas and goals.

The relevant EU institutions and their stakeholders have been reflecting upon this. There has emerged a clear realization that the ENP as a policy framework needs to be reformed to encompass *differentiation* of relations with partner countries as a key principle (EU 2015). This builds on the idea that the EU will respect partner countries' strategic choices as regards how they wish to constitute their relations with the EU. With countries seeking closer association, the EU will seek to develop practical steps to deepen relations; with countries preferring a more detached form of relations, the EU will look for other forms of engagement in line with their needs (*ibid.*, p. 3). In addition, the EU will to a greater extent take into consideration the whole region and the geopolitical context than the case thus far (*ibid.*, p. 4).

Our argument is that this idea of the EU's neighbourhood policy as a coherent, rationalistic and well-planned strategy is a convenient construct that may not hold up to closer scrutiny. This is also particularly evident when studying the policy towards Ukraine.

### **Ambiguity of reform processes in Ukraine**

As we show in greater detail in the Working Paper (Bátora & Rieker 2015), the EU, its member states and associated members (like Norway), together with their non-governmental organizations, have been involved in a wide range of reform processes in Ukraine. As our interviews with senior officials of the EEAS as well as member-state delegations to the EU confirm, member states have been involved in supporting various kinds of reforms – usually in areas where they have the necessary expertise and foreign policy priorities.

Poland, for instance, has been actively involved in Ukraine, supporting anti-corruption measures and processes of decentralization. The Polish government's anti-corruption agency has been working with the Ukrainian government in setting up the Ukrain-

<sup>1</sup> See *On Strengthening the European Neighbourhood Policy*, COM(2006)726, Brussels: European Commission, p. 11.

ian anti-corruption bureau. Concerning decentralization, Polish experts have assisted the Ukrainian authorities in developing legislative proposals for reform of municipalities and municipal governance as well as the territorial structure of regions. Similar assistance activities have been conducted by experts from Germany, as well as from France and the USA. The Slovak government has been involved in two areas in particular: energy sector reform and security sector reform. Energy sector reform has also been a key priority of work carried out in Ukraine with the assistance of the governments of Denmark, Germany and the Netherlands. France has been involved several reform initiatives; a key priority area has been the reform of Ukrainian justice sector. Civil society formation and reforms have been the mainstay of the work done with assistance from the Czech government. Norway has given priority to reform of the justice sector and energy reform, but has also been involved in constitutional reform, nuclear safety issues and modernization of the armed forces.<sup>2</sup>

In addition to the wide range of reform processes that EU member states have been involved in – often in parallel – approaches have also varied among member states as regards the nature of Ukraine's future association with the EU. As several interviewees pointed out, there has been one group of member states who favoured the development of the closest possible ties with Ukraine, not excluding the potential of offering full EU membership. This group has consisted mostly of the Baltic states, Poland, Slovakia, Sweden, Denmark and the UK. On the other hand, there have been several countries – most notably in the South of the EU – sceptical to offering Ukraine anything more than an Association Agreement within the framework of the ENP. That also applies to the latest official standpoints of the German government, which has been increasingly cautious about going too far in deepening its relations with Ukraine in order to avoid damaging relations with 'the neighbours of the neighbours – Russia. Germany is apparently becoming more and more aligned with France's traditional position on ENP/EaP. While Germany has generally had a fairly open approach, the French have insisted on interpreting the ENP as clearly distinct from the enlargement process – and not even as a potential preparation phase for future membership.

To address these coordination problems on the strategic level as well as on the level of practical conduct of reforms, the EU and its member states have been considering various solutions. One of these is an idea voiced in some EU capitals: to appoint a 'high level coordinator' on the EU side to lead the effort in Ukraine. Conceptually and in terms of mandate, such a coordinator would correspond more or less to the role of the EU's High Representatives in Bosnia-Herzegovina or Kosovo. Proponents of this idea have envisioned a senior political figure from the EU taking on the post (e.g. a former prime minister or foreign minister) so that the Ukraine reform agenda could be elevated to a higher level and receive proper attention in governmental circles and in EU-level institutions. However, as of summer 2015, such a post had not been established, and it seemed as though proposals for establishing such a post were no longer on the agenda. This could be explained by lack of member-state consensus as to whether establishing such a post would be useful, especially in view of existing disagreements concerning the long-term objective of the association process. It could also be explained strategically: the wish to avoid any further provocation of Russia. In such a perspective, a more effective option might be a less visible 'mud-

dling through' approach. In our interviews with representatives of selected member-state missions to the EU in May 2015, some confirmed that debates on this point were ongoing among the member states. Other representatives, however, said that such debates were no longer on the table, and still others flatly denied the very existence of such a debate.

The reason for such an unstructured approach to Ukraine as opposed to, for example, Bosnia-Herzegovina since the late 1990s has been the fact that the latter did have a clear international governance structure in place, with a mandate to oversee societal transformation processes and approximation to the EU (Bildt 2015). Such a structure is lacking in Ukraine, and so the EU, its member states and other actors find themselves involved in supporting a multiplicity of transformation initiatives. The Support Group for Ukraine as well as the EU Delegation in Kiev have been seeking to coordinate efforts on the ground in Kiev but such coordination is highly dependent on member-state willingness and capacity to coordinate. Moreover, as discussed in the previous sections, many member-state development projects in Ukraine have been initiated independently of each other, and follow time-lines and financing schedules without little direct intergovernmental coordination.

### Ambiguity and the EU's Transformative Power in the Neighbourhood

Our analysis shows that the EU's neighbourhood policy as a policy framework has been undergoing a profound transformation and that this has been a process characterized by fragmentation of a once-coherent policy framework towards an umbrella term for a set of differentiated and fairly specific tailor-made policy approaches regulating relations with individual countries in the EU Neighbourhood. More profoundly, at the level of practice, the case of the Ukraine shows that the EU's Neighbourhood Policy, and the reform processes in the countries of this neighbourhood conducted as part of this policy, are not as rationally calculated as is often believed. Rather, much of what the EU and its member states are doing in Ukraine seems characterized by multiple and varying definitions of problems, a multitude of solutions generated and provided without clear connections with problems or before problems are defined, numerous participants and a plethora of reform processes with relatively little effective coordination.

We found, first, that the EU's reform efforts in Ukraine are characterized by *parallelism* – problems that need to be addressed are defined in multiple ways, with overlapping reform processes in initiatives run by the EU, by its member states, by associated non-member states as well as by other international actors. Second, we identified relatively high degrees of *path-dependence* in the reform programmes run by the EU and by Germany, medium-level path-dependence in Swedish programmes and low levels of path-dependence in reform projects run by Norway (See Batora & Rieker 2015). This indicates that major reform strategies launched in 2014 and 2015 for identifying problems in the post-Maidan period were constructed in the context of a multitude of solutions that were already being implemented on the ground, having been defined in the pre-Maidan period. This also makes it clear that the ENP is a highly socially embedded strategy, harnessing combinations of existing resources while also seeking to provide well-defined and rationally calculated reform proposals. Third, we have noted *multiple and parallel coordination efforts* by actors from the EU and from the member states, again challenging the view of the ENP as rationally managed process. Finally,

<sup>2</sup> <https://www.regjeringen.no/no/aktuelt/norge-stotter-ukrainas-arbeid-mot-korrupsjon/id2458843/>

the EU member states, associated non-members and the EU institutions and their various constellations are evidently operating with *differing visions* as regards Ukraine's future relations with the EU. This has made the ENP in Ukraine profoundly ambiguous.

Some of this ambiguity in the EU's role in the neighbourhood has already been discussed and criticized in the academic literature. Suffice it here to note the 'capabilities–expectations gap' (Hill 1993) or the above-discussed view of the EU's reform agenda as consisting of symbolic actions and window-dressing. However, there has been less focus on the possibility *that such ambiguity might actually be a source of strength and influence*. As Olsen (2010) points out, the fact that the EU remains a rather ambiguous political entity which various actors associate with various meanings may in fact be a condition contributing to the EU's survival. If the EU were clearly identified and following steps towards a specific type of political order (e.g. a federation), it would be easier for internal and external opponents of integration to organize resistance and even derail the process.

Applied to the context of the ENP, the ambiguity of the EU's engagement with the neighbouring countries, featuring multiple and loosely coupled processes involving EU-level institutions as well as member-state initiatives, leads to uncertainty in terms of what is actually happening to the countries in the neighbourhood. As the case of Ukraine shows, there are competing and complementary visions as to the problems to be dealt with; it is unclear which solutions are useful and when; many participants are involved, and it is often uncertain who is responsible for which parts of the reform agenda, and when important decisions can and should be made.

#### Implications for EU's security community building process and Norway's contribution

While this may seem as a chaotic situation, it is arguably also more difficult for opponents of reforms – whether internal to Ukraine or from outside the country ('neighbours of the neighbours') – to stage effective opposition to reforms implemented according to such a 'garbage can model'. And for these very reasons, it might be that this model will result in better governance structures in Ukraine, a deepening engagement of Ukraine with the EU, and thereby a different and more flexible type of security community building process – all more sustainable in the long run. For Norway, a more flexible process may also be use-

ful. In many ways these changes means that the differences between the contributions from a member states or a non-members become less important.

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