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REGIONAL INTEGRATION¹

Kyiv 2011

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The purpose of this study was to assess the impact of civil society organizations (CSOs) on the formation of state policy regarding regional integration reform. This report is part of a project that includes similar studies on reforms in five other sectors: land, pension, education, consumer rights, and labor law.

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Executive summary

Ordinary Ukrainians and most of the country's political forces recognize that Ukraine belongs to Europe and deserves to become a full-fledged member of the European Union one day. Ukrainian voters and their Government also favor a mutually beneficial, friendly, stable and predictable strategic partnership with Russia. These two vectors are sometimes seen as contradictory, but the task of the country's Government and civil society is to make them complementary in a way that will allow Ukraine and the regions to which it belongs to benefit from both.²

Ukraine's engagement in other regional integration projects could also potentially serve its national interests. Ukraine is slowly but surely becoming a pro-active player in integrational processes, not only in political and commercial, but also in humanitarian, environmental, security and other aspects.

Still, the complexity of the challenges facing the country require effective reforms and better approaches to integration processes in which it is involved. Russia has its plans regarding Ukraine, but there is little sense that Ukraine has any plans regarding Russia.³ With the EU, Ukraine needs to come up with a formula for relations that will speed up the trend towards integration into its internal market. The development of a strategy for a more active role of Ukraine in other regional integration projects needs to start without delay as well.

Civil society in Ukraine is not homogenous. There are pro-European non-government organizations as well as pro-Russian ones. According to expert estimates, Ukraine's interests are better served by a Free Economic Zone with the EU and not membership in the Customs Union.⁴

"Changes in the foreign environment mean we have to profoundly re-think Ukraine's development prospects as a mid-sized regional power in terms of both size and potential."⁵ Ukraine belongs to a number of regions in which its active involvement could strengthen the country. Ukraine's border regions are steadily gaining in influence over the country's development.⁶ This means that the country should participate in regional integration projects both at the macro or state level and at the micro or local community level.

¹ "Term "regional integration" or "international integration" refers to an objective, complicated and contradictory phenomenon as a multi-level system developing in contradiction to disintegrational trends in the global system, that is characterized by the process of uniting states and nations in a way of resolving of common problems and reaching of common goals and objectives, followed by closer interaction, and leading eventually to a merger into a single entity, the establishment of common institutions and legal standards that are dedicated to ensuring functional effectiveness of the interactive processes." For more details see "The term 'regional integration' in Ukrainian and foreign studies," http://www.nbuv.gov.ua/portal/Soc_Gum/Grani/2011_3/P-32.pdf.

² Ukraine belongs to at least six regions: 1) Europe, including EU member states, EU candidate countries, EP partners and EEA members; 2) the CIS or Eurasia, not including Europe; 3) the Black Sea region, that is, countries with direct access to the Black Sea; 4) the Euro-Atlantic region, that is, NATO and OSCE member states; 5) the Danube River region, that is, countries with direct access to the Danube River; 6) and GUAM, that is, the region encompassing Georgia, Ukraine, Azerbaijan and Moldova.

³ For more details, see the ICPS paper, "New Foreign Policy: Ukraine has a plan," www.icps.com.ua

⁴ <http://www.unian.net/ukr/news/news-435144.html>

⁵ Modernizing Ukraine: Our strategic choice, Annual State of The Nation Address by the President of Ukraine before the Verkhovna Rada of Ukraine, Kyiv, 2011, 416 pp.

⁶ Eight "Euroregions" operate on Ukraine's borders, a Black Sea Euroregion is in the formation stage, and more are on the way.

Goal of reform

Ukraine's Economic Reform Program states its goals as: "Reforms in the area of international integration and cooperation directed at establishing an integrated and balanced foreign economic policy, increasing the country's competitive edge, and making Ukraine's economy more attractive to investors."

Still, this is little more than a general framework that needs specifics. There are no comprehensive, detailed strategic or program documents dedicated to proper systemic and target-oriented reforms in this sphere, in order for Ukraine to reach a number of key goals:

- **With the EU** — using the future Association Agreement (AA) as the basis for modernizing the country. All reforms should be in line with this Agreement. The European Neighborhood policy, together with the Eastern Partnership, the Black Sea Synergy, and the Danube Strategy should become instruments in support of reforms.
- **With Russia** — establishing a publicly approved Action Plan built along European principles and a proactive integrational position, including within the CIS framework. Maximum closeness in all areas of common interest up to a level that does not conflict with Eurointegration.
- **In other regions** — establishing leadership, joint efforts with other important players, who should become partners rather than rivals. Unifying factors: the Black Sea and the Danube River. Key partners: Turkey, Russia and Romania. Zone of top priority interests: the near abroad. Unifying factors: a common past. Key partners: Azerbaijan, Moldova, Georgia and, potentially, Belarus. Partnership with Moldova, in particular, could serve to improve results in dialog with the EU and neighboring EU member states.
- **In security** — guaranteeing Ukraine's independence and sovereignty by making non-bloc status explicit and meaningful, taking advantage of every opportunity to cooperate with NATO, including by undertaking annual national programs, and also active participation in the formulation and realization of the Common Security and Defense Policy (CSDP).⁷
- **At the micro level,** — reviving cross-border cooperation. Instruments for this purpose: reviving Euroregions and taking advantage of all opportunities available through other cross-border cooperation programs, especially with the EU, Russia, Moldova and other neighbors.

In general, Ukraine has to reposition itself regarding Europe and the world, using effective means to protect its national interests.

⁷ Formerly the European Security and Defense Policy (ESDP).

Problems

The Economic Reform program states that "Ukraine's successful integration into the world economy is hampered by such problems as:

- the lack of a systemic approach to international integration and cooperation;
- inadequate access to external markets for Ukrainian products and services;
- a low level of diversification in Ukrainian exports, both goods-wise and territorially;
- a poor level of effectiveness in the preparation for integration into Europe;
- insufficient use of trade potential in cooperating with CIS countries, other promising trading partners and regional integrational associations;
- poor effectiveness in attracting and using external assistance."

At the same time, the Program lists only the tip of the iceberg. Far more fundamental problems lie below the surface, such as:

- "Administrative" reform failed to be a factor that strengthened key institutions. For instance, the MFA was given the function of covering foreign trade activity, although it still has not seen its human resources reinforced, let alone its budget. On the contrary, it is faced with the threat of a 30% cut in staffing.
- The level of interaction between government and civil society remains unsatisfactory as the system of Civil Expert Councils that was in place until recently has *de facto* been destroyed and nothing new has replaced it.⁸ Moreover, the expertise and recommendations that have been proposed to the Government by leading think-tanks are more often than not simply ignored. There is no simple answer for why this is happening. Given that the previous Government had encouraged input from civil society into decision-making and often expressed satisfaction with the quality of the recommendation, offered, lack of political will may be the only explanation for the current state of affairs. To overcome this, new approaches to advocacy are needed.
- The absence of institutions that are responsible for coordinating European integration policy. The current Government's departure from the best practice of its predecessors has led to declining progress in fulfilling commitments made before the EU⁹ and to total lack of preparedness to draft a National Implementation Program for the Association Agreement.¹⁰
- EU and other donor technical assistance has been so ineffectively used that it is completely unavailable for reforms now.
- A philosophy based on consumption in relations with Russia keeps Ukraine hostage to changing circumstances. The country keeps looking for lower natural gas prices rather than replacing it with alternative fuels or reducing consumption. At the same time, Ukraine fails to take advantage of its own trumps: transit, technological and intellectual resources. The only way to overcome this gap appears to be sectoral integration with the EU, that is, fully implementing the European Energy Community (EEC) *acquis*, establishing a Common Aviation Space (CAS), and so on. Potentially, UA-RU-EU triangles in energy and other economic areas can serve this goal.

⁸ See, for instance, Iryna Bekeshkina, "Elections of the chair of the MFA Civil Council—a corporate raid!" <http://www.europexxi.kiev.ua/pod%D1%96%D1%97-gromadskogo-zhittya/%D1%96rina-bekeshk%D1%96na-vibori-glavi-gromadsko%D1%97-radi-mzs-tse-reiderstvo>

⁹ See, for instance, "Report on civil monitoring of the progress of the priorities on the Ukraine-EU Association Agenda in 2010, www.ucipr.kiev.ua.

¹⁰ For more details, see http://www.icps.com.ua/files/articles/57/51/PB_6_April_2010_UKR.pdf.

- Ignoring other promising areas of regional integration, such as, for instance, the Euro-Atlantic, Black Sea and Danube regions, is turning Ukraine into a perennial outsider in all these regions.
- Unexpected delays in the Government's drafting of strategic and/or operational documents are hampering reforms and the fulfillment of commitments to partners. For instance, the National Plan of Measures to carry out the Action Plan to liberalize the visa regime with the European Union was only approved five months after the Action Plan was adopted.¹¹
- Legislation on cross-border cooperation is not in line with CoE and EU norms and standards and there are no strategic documents regarding its development.¹²
- Some officials engage in useless debates of already-agreed legislative priorities instead of identifying the best ways to achieve these goals.¹³ As a result, there is no consolidated position in Ukraine on the direction in which the country should be moving on: integration into the EU or reintegration on the territory of the former USSR. Opponents of Eurointegration remain a powerful lobby among politicians, academics, NGOs and the general public.

¹¹ Presidential Decree №494 dated 22 April 2011, <http://www.president.gov.ua/documents/13479.html>.

¹² For instance, Cabinet Resolution №587 dated 29 April 2002 "On the development of cross-border cooperation and the Euroregions" became null and void with the signing of Cabinet Resolution №397 dated 02 June 2010, as a result of which, certain other decisions were not approved.

¹³ See, for example, interview with Valeriy Muntian: "We can live without the Customs Union, but it's unlikely to happen that way," <http://economics.unian.net/ukr/detail/54405>.

The cost of non-doing

No one in Ukraine has bothered to calculate the cost of not doing reform in the area of regional integration. The main threat that continues to face Ukraine as a state, at least hypothetically, is the threat of partial or even complete loss of sovereignty and independence, as has happened more than once in the country's history. Frequent crises in Belarus-Russia relations, especially the latest one, despite — or perhaps even because of¹⁴ — the country's membership in the Customs Union, provides a very good indication of the hidden agenda under which Russia and Russian business operate: gaining complete control over the country's economy, security and politics — an aim that is completely unacceptable to Ukrainian society.

Yet, immediate and inevitable consequences include:

- The loss of any prospects for EU membership for the foreseeable future should the country fail to come through on the AA, delays in instituting a visa-free travel for Ukrainians if the Action Plan on liberalization of the visa regime is not carried out, and general stagnation in relations with the EU.
- The failure to sign a free trade agreement or signing agreements on free trade that are detrimental to Ukraine with the CIS and other key trading partners.
- The continuation of fruitless debates of a "quo vadis?" nature in Ukrainian society: "The EU or Russia?" whether with reference to the Customs Union (CU) or any other organization of a similar nature initiated by Russia. The result will be growing distrust towards Ukraine as a reliable and predictable partner and growing uncertainty in the future among Ukrainian voters.
- The loss of positions on foreign markets. Trends in this area are already very evident¹⁵. The latest example is Russia closing down its market to hard candy from Ukraine.
- Letting slip benefits from the Black Sea and Danube regions, including Ukraine's transformation into a perennial outsider in these regions.
- The "closure" of GUAM, the only integrational project initiated by Ukraine so far.

¹⁴ See, for instance, an interview with Ukraine's former Ambassador to Belarus Roman Bezsmertniy, dated 16 June 2011, <http://news.finance.ua/ua/~/1/0/all/2011/06/15/242023>.

¹⁵ The negative balance of trade with CIS countries for the first five months of 2011 was over US \$4.6bn, while with Europe it was over US \$1.3bn. <http://www.ukrstat.gov.ua/>

Policy decisions

Regulatory

The National Action Plan for 2011 regarding the implementation of the Economic Reform Program for 2010 – 2014 "A wealthy society, competitive economy, effective government,"¹⁶ which was approved by Presidential Decree № 504 dated 27 April 2011 contains such decisions and measures for 2011:

- setting up a foreign trade council under the Government;
- adopting a Concept for planning, drawing, effectively utilizing, and monitoring international technical and financial assistance;
- approving a plan of measures to increase the advantages and minimize the negative consequences to the domestic economy of a future free trade area with the European Union;
- concluding the negotiation process regarding the future free trade area between Ukraine and the EU;
- preparing a Government resolution regarding measures to develop and expand Ukraine's export potential and to expand external markets for domestic manufactured goods;
- participating in preparations to conclude an FTA Agreement among CIS states in the established order;
- developing and submitting for review to the Cabinet of Ministers of Ukraine a draft Government resolution to approve the draft Program of Long-Term Trade and Commercial Cooperation with the Russian Federation for 2011 – 2020.

Most of these decisions and measures have been adopted, although two key ones, "concluding the negotiation process regarding the future free trade area between Ukraine and the EU" and "participating in preparations to conclude an FTA Agreement among CIS states," are still in the process of their implementation. Whether it will be possible to implement them by the end of 2011 is hard to say, but these steps will definitely determine the direction of Ukraine's development for at least the next 10 – 15 years.

No other decisions regarding other areas of regional integration, except for the EU and Russia/CIS, are anticipated in the Economic Reform Program. However, a number of other decisions need to be made, in addition to the ones listed from the Program:

- adopting a National Security Strategy and Strategic Priorities of Foreign Policy till 2020, as designated, among others, by the NSC Resolution of 17 November 2010 "On challenges and threats to Ukraine's national security in 2011." These particular documents should establish key priorities in regional integration and mechanisms for making such integration meaningful.
- Preparation of the amendments to the Law "On cross-border cooperation" to bring it in line with EU and CoE norms and standards;
- adopting a Law "On external assistance" that would include a transparent and understandable mechanism for attracting and utilizing technical and financial assistance from the EU and other donors;

¹⁶ <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=504%2F2011>

- drafting a Black Sea strategy directed at raising Ukraine's profile in the region, especially through working pro-actively within the Organization of Black Sea Economic Cooperation (OBSEC), expanding the functions for BLACKSEAFOR, the Black Sea Naval Cooperation Task Force, forming a Black Sea Euroregion, and so on;
- drafting a Danube strategy directed at transforming the Danube River into a unifying factor for the EU and Ukraine;
- drafting a Concept and Plan for Ukraine's presidency in the OSCE, paying specific attention to reforming the entire organization;
- drafting an Action Plan to strengthen GUAM.

In addition, Ukraine needs to accelerate its accession to Memorandum №3 of the European Framework Convention on Cross-border Cooperation among Territorial Communities or Governments, which unifies standards for how to set up and operate associations of Euroregional cooperation (Euroregions).

Institutional

The Economic Reform Program does not provide for any of the institutional changes that are needed to achieve any progress in integration into the EU, or in relations within the framework of the CIS or other integrational projects and areas. Top priority institutional changes should logically include:

- setting up a State Council on European Integration;
- setting up a central executive body (CEB) for European integration. This could be a ministry or agency;
- increasing staffing at the MFA and the sub-units responsible for European integration at the CEB and local government levels;
- setting up interagency commissions or working groups responsible for the Black Sea and Danube areas, as well as for activities related to GUAM;¹⁷
- facilitating Euroregions in setting up a Ukrainian Association of Euroregions¹⁸ and encouraging active participation in the work of related international NGOs, such as the Association of European Border Regions (AEBR).

Ukraine and the EU also signed a Memorandum on Cooperation regarding a framework Comprehensive Institution-Building program document (CIB)¹⁹ whose purpose is preparing Ukraine institutionally to undertake the AA. Despite its name, this document is not actually especially comprehensive as it is directed at reforming only three sectors — migration, the phyto-sanitary and state assistance — rather than on rebuilding the entire public service. Instead, the EU is supposed to be involved in reforming all institutions that are responsible for carrying out the key priorities in the AA.

Financial

At the moment financial policy is not anticipated. In order to undertake institutional changes, it will be necessary to change the State Budget of Ukraine accordingly.

¹⁷ One example is a working group set up by Presidential Resolution №190/2011-RP "On a Working Group to establish interaction between Ukraine and the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" dated 6 June 2011, <http://www.president.gov.ua/documents/13658.html>

¹⁸ This is an idea that has been promoted for quite some time by the Secretariat of the Carpathian Euroregion but has not found support among the leadership of all other Euroregions that are directly under the management of Oblast State Administrations (OSAs). From a speech by the director of the Carpathian Euroregion in Ukraine, H. Lytvyn, during a conference on "Cross-Border Cooperation and the Eastern Partnership as an Instrument for Integrating Ukraine into the European Community," which ran 3–4 June 2011 in L'viv.

¹⁹ www.center.gov.ua/golovna/download-document.html?gid=1342

Alternatives

Ukraine's traditional opponents of Eurointegration and supporters of reintegration on post-soviet territory are the communists.²⁰ No other political force represented in the Verkhovna Rada has stood against the model of international integration and cooperation put forth by the President and Government and defined in the Law "On the foundations of domestic and foreign policy." A telling example here were the Rada hearings on the topic "On the state and prospects of developing economic relations between Ukraine and the EU (Free Trade Area) and the Customs Union:" VR Resolution №3400 dated 19 May 2011 adopted the resulting recommendations, with 290 of 450 deputies in favor.²¹

The only "government" lobbyist for joining the CU was the Cabinet's Ombudsman for Cooperation with the Russian Federation, CIS member states and other regional associations, Valeriy Muntian — and even he was not as adamant about it as in earlier interviews when he addressed the legislature.²² Still, his position, which amounts to the possibility of integrating "both here and there," was not considered by national deputies.

²⁰ See, for example, Petro Symonenko (CPU), "Joining a Free Trade Area with the EU is a blow to Ukraine's independence, " <http://www.eastkorr.net/politics/petr-simonenko-vstuplenie-v-zonu-svobodnoi-torgovli-s-es-eto-udar-po-nezavisimosti-ukrainy>

²¹ To see how individual deputies voted, see: http://w1.c1.rada.gov.ua/pls/radac_gs09/g_frack_list_n?ident=20470&krit=66.

²² A tape-recording of these hearings can be found at: http://www.rada.gov.ua/zakon/new/par_sl/sl110511.htm

Analysis of stakeholder positions

Government

The official position of the President and Government of Ukraine is that Ukraine must integrate with the EU while developing relations with both Russia and the CIS as a whole. To strengthen the Eurointegration aspect, the President has designated First Vice Premier Andriy Kliuyev the coordinator of negotiations over the EU FTA in order to bring them to a speedier conclusion. Mr. Kliuyev is also responsible for negotiations in the context of the CIS regarding an FTA. The fact that these two directions are combined in a single political center is clearly a positive sign.

Overall, the official position of the President and Government regarding integration processes involving Ukraine looks consolidated. But the lack of response to public statements by Mr. Muntian regarding the benefits of joining the CU suggests either that there is a separate group of pro-Russian top officials in the government who have a stake in seeing Eurointegration processes curtailed in favor of integration with Russia, or that there is an overly subtle game going on to make the EU more willing to compromise during the final stages of negotiations over the FTA. If the second possibility seems phantasmagoric, the first one appears quite realistic, given that the business interests of various oligarchic groups depend highly on access to the Russian market. Cutting of debate over this matter will only be possible after the AA is signed. Ukraine's choice in favor of the EU was made a long time ago, which means that the country should participate in other integration projects, including those initiated by Russia, only to an extent that does not interfere in its Eurointegration course.

Government opposition

Most opposition forces have adopted a fundamentally hostile position towards joining the CU. Moreover, even initiatives regarding cooperation with the CU under the "3 + 1" formula mentioned by the President in his annual State of the Nation address to the Verkhovna Rada have been criticized. Eurointegration, by contrast, as well as "constructive" relations with Russia and the CIS, are supported by all political parties that consider themselves in the opposition. Other possibilities for regional integration are largely unremarked. However, some members of *Nasha Ukraina* and *Batkivshchyna* have announced the need to return to a Euroatlantic approach, arguing quite validly that by reaffirming its "non-bloc" status, Ukraine has effectively left itself completely unprotected.

Pro-European NGOs

Pro-European NGOs have a position similar to the official Government one. At the same time, there is growing criticism of the government's actions and policies, which do not match their declared goals in European integration.

Over the last two or three years, such NGOs have gradually begun to join up in associations, consortia, councils, and so on. Over 2008 – 2009, the most influential platform was the Civil Expert Council under the Ukrainian part of the Committee for Ukraine-EU Cooperation, but its operations have been wound down almost entirely since the Azarov Government lost interest in the Committee and shut down the Coordinating Bureau for European and Euro-Atlantic Integration, along with the Government Committee for European Integration and International Cooperation. The Council has been trying to regain access to the Government in recent months but the results are poorer than before.

On 29 January 2011 the National Platform called the Eastern Partnership Civil Society Forum was established.²³ The European Commission runs these Eastern Partnership Civil Society Forums every year, involving more than 200 civil society organizations (CSOs), EU member countries, international organizations and third countries. This National Platform is gradually becoming the most active lobbyist of the government's actions and policies when they match its declared Eurointegration goals. For example, on 22 April 2011, it was in the name of this Platform that a statement was issued calling on the government to speed up Ukraine's European integration and not try to dupe voters regarding the option of joining the CU.²⁴

Pro-Russian NGOs

Individual NGOs carry out the role of a kind of barometer of public opinion through their public statements and actions. Moreover, although they are relatively aggressive in Odesa and Crimea, in Kyiv they are tolerant and professional in their behavior, such as the Center for International and Comparative Studies.²⁵ Over 2004 – 2005, all of the then-active pro-Russian organizations joined forces for the first time in history of independent Ukraine, including: the Russian Council of Ukraine, the Russian Society of Crimea, the Russian Commonwealth All-Ukrainian Union, and others. The purpose of this union was announced as carrying out "large-scale cultural, nationwide campaigns." The pro-Russian informational war in Ukraine involves more than 60 news agencies in the Russian Federation. Pro-Russian NGOs work to promulgate the idea of reintegrating the "common cultural horizons" of CIS countries and deepening relations with Russia itself.²⁶ Similar trends can also be seen in recent years, although without any evident institutionalization of such NGOs in councils or other platforms similar to pro-EU organizations. The traditional suspicion with which Ukrainian society and law-enforcement agencies regard these kinds of activities get in the way of such processes.

Academics

The vast majority of Ukraine's scholars from top universities and research institutes, such as the University of Kyiv-Mohyla Academy, Shevchenko National University, Koretskiy Institute of State and Law, and L'viv State University, want to see the EU integration process speeded up. Still, some members of the old soviet guard argue the uselessness or, at a minimum, short-sightedness of such an approach, saying that integration should be exclusively in the former soviet region.

For instance, the director of the Institute for World Economy and International Relations under the National Academy of Sciences, Yuriy Pakhomov, says, "Realistically, we aren't going to get to Europe in the foreseeable future, and that's our salvation. Salvation in the sense that we won't find ourselves Euro outcasts. We need to consider the fact that our manufacturing, with very rare exceptions, has not only been in decline for the last 20 years but is neither compatible with nor complementary to Europe. If only for the reason that joining the EU would be a major catastrophe for our country and there would be a mass exodus of jobless people in search of at least some work elsewhere."²⁷

²³ http://eeas.europa.eu/delegations/ukraine/press_corner/all_news/news/2011/2011_02_02_1_en.htm

²⁴ http://parlament.org.ua/index.php?action=news&as=0&ar_id=2311#ar2311

²⁵ <http://www.cics.com.ua/>

²⁶ <http://www.politika.org.ua/?p=982>

²⁷ <http://www.from-ua.com/politics/b1d13d427de7e.html>

Others, like Andriy Yermolayev, director of the Institute of Strategic Studies, disagree. Mr. Yermolayev argues that there can be no talk of joining the CU, because "Russia's propositions are conflicting and very unpromising."²⁸

Business

Big Business is interested in European markets, as they promise growth. The markets in Russia and other CIS countries are traditional for Ukrainian businesses, but they are largely already penetrated and familiar, and prospects for expansion are mostly exhausted. In other words, integration with Russia will bring little change for Ukraine's business. At the same time, competition on the part of powerful Russian rivals who enjoy the backing of the state is a serious threat.

A Free Trade Area and access to the internal EU market are desirable instruments for entering the so-far poorly penetrated EU market with its nearly 500 million consumers. At the beginning of negotiations on the AA, domestic business associations were not capable of stating their business interests in the form of requests of the Government, the way European business had done even before talks began. Over the last two years, however, Ukraine's negotiating team has found itself under constant pressure from business lobbies at home.

Ukrainian business is the most interested party in seeing an effective course towards Eurointegration undertaken and in gaining new markets. At the same time, it wants to see constructive, mutually beneficial relations maintained with Russia and other traditional partners.

International aid projects

Hundreds of international projects and organizations operate in Ukraine at any given moment that, in one way or another, are active in terms of regional integration. Based on the budgets spent, the number of projects implemented, the analysis undertaken and stakeholders or partners involved, the most effective of these are USAID, the British Council, UNDP, the German Funds, the Ukrainian-European Policy and Legal Advice Center (UEPLAC) Phase V,²⁹ and the National Convention on the EU in Ukraine Project.³⁰

The problem for Ukrainian society and Government is that most other funds operate fairly opaquely and change their strategies and priorities at their own whim. In addition, some funds use resources being allocated by foreign donors themselves while refusing to support Ukrainian NGOs.

Russian funds and projects have a clear strategy for working with Ukraine's civil society. Their main focus is to impose Russian political values, ideology and political agenda on Ukrainian citizens.

European Union

"Kyiv fatigue" among Brussels bureaucrats is becoming a very real threat. Ukraine is falling victim to the fact that the EU lacks the kind of systemic vision of its future and ambitious goals that drove its relationship to one-time candidate countries.

The EU needs to decide for itself what its key priorities are in its relationship with the Ukraine. The nominally legitimate Basic Law and the soviet system of public administra-

²⁸ From materials from the roundtable, "Ukraine 2020: Finding a place under the sun. Foreign policy challenges and opportunities for the next decade," 18 May 2011, Kyiv, Hotel Kyiv.

²⁹ Funded by the European Commission, <http://ueplac.kiev.ua/>.

³⁰ Funded by the MFA of Slovakia, <http://www.euconvention.org.ua/>. This is a measure to support and further expand the national debate on pathways to bring Ukraine closer to the European Union.

tion, which has undergone little more than cosmetic changes, do not foster the building of a European Ukraine and offer no benefits to the EU. In our opinion, three priorities are key here:

- Approving the Constitution and institute a public service modeled on European ones with the support of — and some pressure from — the EU. This will guarantee that the EU will be strengthened by Ukraine in the future. The most useful examples of norms implemented in the EU and desperately needed to Ukraine include the principles of subsidiarity — more decisions at the local level, — public consultations during decision-making, and equal treatment in court.
- Preparing Ukraine to undertake the future AA.
- Reinforcing civil society and local governance as the drivers of Eurointegration in Ukraine. To achieve this goal, the EU Delegation should provide coordination,³¹ including monthly meetings with most active NGOs and local government representatives, and greater EU targeted funding, rather than budget support programs.

By concentrating on these particular three priorities, Ukraine will transform itself from a passive victim to an active player in the regions to which it belongs, and — most importantly — enable the country to considerably strengthen Europe as a whole.

Russian Federation

Russia has gone through its period of focusing inward and is already actively working on recouping its status as a key geopolitical player in Europe and the world. Its key challenges are global competition, the threat of disintegration, and new democracies on its borders.

Ukraine is the only factor that can strengthen Russia, which is why it is under constant pressure and the threat of being absorbed into Russia's orbit, into the "Russkiy mir" as Russia gobbles up individual sectors of the economy and goes for the maximum of closeness, including the option of establishing a new state or union along the lines of its so-far failed experiment with Belarus.

Russia will do everything it can to disrupt Ukraine's negotiations over the Association Agreement and then, once it is signed, to delay its coming into effect as long as possible. In the meantime, there will be efforts to draw Ukraine into other integrational projects driven by Moscow: the CIS, Eurasian Economic Community (EAEC), Single Economic Area (SEA), and the CU. Other projects could also emerge to replace these. Still, Russia is well aware that, without Ukraine, they are all doomed to failure. That is why Ukraine frequently faces both trade wars with Russia and, more recently, open ultimatums from Russian politicians regarding its choice between EU — and Russia-sponsored integration projects³².

Turkey

Turkey has been gradually becoming the undoubted leader in the Black Sea region and a key player on the crossroads between Europe and the Middle East. Its position towards Ukraine is very clear: support for Eurointegration and efforts to draw Ukraine into its sphere of influence through a free trade area and visa-free regime.

At the same time, Turkey also offsets Russia's influence somewhat and is a natural ally for Ukraine in negotiations with the EU.

³¹ The only one meeting of the Ukrainian National Platform of Eastern Partnership Civil Society Forum with the Head of EU Delegation is unlikely could serve to effective coordination. Moreover, other NGOs have considerable difficulties in getting appointments with the Delegation.

³² See, for instance, <http://m-ns.org/economy/dmitrij-medvedev-stavit-ukraine-ultimatum-003658>

Obstacles to policy

In our opinion, effective reform in regional integration requires that certain obstacles be removed:

- Post-soviet institutional inertia. One typical feature of this is the lack of differentiation and clear algorithms for actions when drafting and approving policy, the way it is done, say, in the EU: Green Papers—>White Papers—>public consultations—>decisions.
- Ineffective distribution of public monies. Until now the Budget was more oriented not on development but on satisfying primary needs among law enforcement agencies and certain state actors.³³
- Inconsistency between individual domestic policies and the government's actions in relation to declared foreign policy goals. As it happens, individual politicians and government officials stand behind it who are interested in seeing European norms and standards instituted in Ukraine.
- Inconsistency in interacting with promising regional integration projects³⁴ because of Ukraine's fixation on the EU and Russia.

³³ See, for instance, comments by A. Pavlovskiy, <http://www.ut.net.ua/News/24609>.

³⁴ For instance, during the third Conference on the Danube Cooperation Process, the head of the Ukrainian delegation proposed holding the 2009 Conference in Ukraine, which would provide an opportunity to attract additional funding for the country's Eurointegration ambitions from DCP members, especially Germany and Austria. But the Conference did not meet again until this year.

Timetable

There is no clearly approved timetable for carrying out reforms related to regional integration. Instead, the Economic Reform Project mixes broad timeframes regarding specific measures related to EU integration and cooperation with Russia and the CIS.

Despite the fact that such a timetable looks quite realistic at first glance, it needs considerably greater detail and needs to be expanded in terms of Ukraine's participation in integration processes in other directions. It also needs to reflect institutional changes and financial costs.

Given the speed with which geopolitical and regional changes are taking place, reforms in regional integration need to be undertaken in the tightest possible timeframes, optimally between 2012 and 2014, prior to the coming into effect of the Association Agreement.

The European framework

Once it implements the future AA, Ukraine's relationship with the EU should become more clearly a political association and economic integration. Still, there is a gap between the essence of the eventual agreement and expectations on both sides. The issue of the political goal of the AA needs to be resolved. The double game that has been carried on by the EU in relation to Turkey³⁵ for many years is unlikely to play among Ukrainian voters who, based on recent surveys,³⁶ already show signs of losing patience.

In the Partnership and Cooperation Agreement (PCA), Ukraine committed itself to "take steps to gradually bring its legislation in line with the legislation of the Community."³⁷ There were no other restrictions placed on Ukraine regarding accession to any other political, economic or security unions.

When Ukraine joined the European Energy Community (EEC), for the first time it took on the commitment to transpose into Ukrainian domestic law a specific list of EC directives that will need billions in investment.³⁸

Once Ukraine signs the AA and the Agreement on a Common Aviation Space, the extent of the EU *acquis* that will have to be incorporated into Ukraine's legal system will be unprecedented for the country — although they will be far from the level of commitment required of EU membership candidate countries in this area. The only room to maneuver that Ukraine has in agreeing and implementing such ambitious commitments is the transition periods that it negotiates — normally from one to 10 years —, and the volume of EU technical assistance.³⁹ Ukrainian experts say that the AA will not resemble other such agreements that the EU has signed with other countries.⁴⁰

On 25 May 2011, a joint Communication from the European Commission and the High Representative of the EU for Foreign Affairs and Security Policy was issued called "A new answer for a changing neighborhood."⁴¹ This document constitutes a serious challenge for Ukraine. For the first time in relations between the EU and third countries, a fundamental change in the EU approach to its neighbors is presented. Among others, the Communication states that, to "strengthen the partnership between the EU and the countries and societies, a new approach is needed: developing consolidated, healthy democracies; ensuring sustainable economic growth, and managing cross-border communication. The new approach "must" — a word not generally used in diplomatic discourse or in such documents — "be based on mutual responsibilities and common commitments to universal values regarding human rights, democracy and rule of law." The over EUR 1.2 billion that has been added to the assistance the EU is allocating over three years to its partners will be distributed, not proportionally according to territories, size of population and so on, but "in relation to the progress achieved in actual reforms."

³⁵ See, for example, the ECFR study called "What does Turkey think?", June 2011, http://www.ecfr.eu/page/-/ECFR35_TURKEY_AW.pdf

³⁶ See, for example, public opinion polls by the Razumkov Center. In 2009, only 44.4% of those surveyed favored joining the EU, the lowest indicator since 2002, when the idea found favor with 65% of respondents. http://www.uceps.org/ukr/poll.php?poll_id=387

³⁷ See Art. 51 of the PCA.

³⁸ For instance, Directive 2001/80/EC requires a reduction in emissions of sulfur dioxide, nitrogen dioxide and ash at thermo-electric stations (TESs), something that experts say will "require US \$5-17 billion in investment." For more detail, see <http://www.icps.com.ua/files/articles/64/68/NL%20494%20UKR.pdf>.

³⁹ For instance, Turkey received over EUR 650 million in technical assistance from the EU for adaptation of its legislation to EU laws in 2010 alone. By contrast, Ukraine's budget for the new National Indicative Program (NIP) is only EUR 470.1 million for 2011-2013.

⁴⁰ See, for instance, the Transposition *acquis* of the European Union in the legal systems of three countries," R.A. Petrov, Kyiv, Istyna Publishers, 2011, p. 305.

⁴¹ For complete text, see http://ec.europa.eu/world/enp/pdf/com_11_303_en.pdf

The EU's position on regional cooperation involving ENP countries, EU countries and third countries is strategically motivated. Until 2007, the EU maintained separate bilateral and multilateral partnership programs and preparations for accession⁴² that were largely incompatible with each other. With the launch of the European Neighborhood Policy Instrument (ENPI), for the first time a program appeared with the name "Black Sea"⁴³ whose participants are EU member states,⁴⁴ ENP participating countries,⁴⁵ EU candidate countries (Turkey), and Russia, which does not participate in the European Neighborhood Policy at all. However, the relatively insignificant budget for this program, compared to three other cross-border cooperation programs⁴⁶ illustrates just how uncertain the EU is about the effectiveness of this kind of mechanism for interaction. Yet the first results of this program⁴⁷ and the size of the problems that are common to the EU and other Black Sea region countries show that the dynamic of these formats of regional cooperation is on the rise.

At the start of the Eastern Partnership, Ukraine's position *inter alia* was that it did not strengthen the bilateral aspect of Ukraine — EU relations and that any added value for the country could only be in its multilateral aspects. Other ENP partners can anticipate additional benefits from both multilateral relations and bilateral ones, although the latter are much less developed in regard to these countries than they are in regard to Ukraine. Meanwhile, EU sanctions against Belarus after the last presidential election led to a winding down of bilateral relations between the EU and Belarus. The result is that the multilateral aspect of the Eastern Partnership is becoming an extremely critical element in order to ensure that it is a success. Of course, even here Belarus will be restricted in its participation in official activities. For the sake of fairness, during the second session of foreign ministers of Eastern Partnership countries on 13 December 2010 in Brussels, the chair did note that there was already evidence of progress in implementing measures of a multilateral nature.⁴⁸

From the very start, the EU has seen Ukraine as a model for the other five EP countries as Ukraine is already carrying out most EP initiatives. The EU's efforts to raise the profile of its relations with eastern partners also led to the start of cooperation with GUAM and BSEC. Still, the prospects for these two formats of cooperation vary. Whereas GUAM somehow has still not managed to find its place under the sun, BSEC is gradually picking up pace. Inevitably, relations between the EU and this organization will also grow in significance, partly because some of its members are EU member countries (Bulgaria, Romania and Greece) and candidate countries (Turkey). Given that Russia's position towards this format is fairly eccentric,⁴⁹ Ukraine's role in further promoting relations in this format becomes an important one.

Deepening integrational processes with the EU places a greater degree of responsibility on Ukraine, along with certain restrictions. Responsibility lies primarily with joining EU

⁴² For example, Phare, MEDA and TACIS.

⁴³ In 1997, the European Commission prepared a document called "Regional Cooperation in the Black Sea Region: Status quo and the prospects of EU actions to stimulate its future development" dated 14 November and a report to the Council on regional cooperation in Europe dated December 19, which presented the Black Sea region as strategically important for the EU, given its considerable economic potential. The EU Council noted that the Black Sea Economic Cooperation (BSEC) could play a major role. However, no funding was attached to this document.

⁴⁴ Bulgaria, Greece and Romania.

⁴⁵ Azerbaijan, Armenia, Georgia, Moldova and Ukraine.

⁴⁶ EUR 17.3 million for 2007–2013 compared to a budget of EUR 186.2 million for the Ukraine–Poland–Belarus program, EUR 126.7 million for the Ukraine–Romania–Moldova program, and EUR 68.6 million for the Ukraine–Hungary–Slovakia–Romania program.

⁴⁷ For more information, see www.blacksea-cbc.net.

⁴⁸ For more details, see http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118435.pdf.

⁴⁹ For instance, during the first-ever meeting of BSEC-EU foreign ministers on 14 February 2008 in Kyiv, Russia did not sign the Concluding Statement of the meeting because, as it stated, the sides had not reached a formula for "parity relations between BSEC and the EU."

Statements and positions⁵⁰ that are approved within the context of the Common Foreign and Security Policy, participating in EU operations and missions in the context of the Common Security and Defense Policy,⁵¹ and carrying out commitments made in agreements signed with the EU. The restrictions concern approving foreign policy decisions or actions that conflict with the positions or actions of the EU.⁵²

Still, there are also new opportunities in all this. For example, the role of a mediator in EU relations with Belarus and a facilitator in the EU – Russia – Ukraine triangle. Until the end of 2008, this format was virtually impossible, but now it could actually become quite promising because the issue of energy remains a stumbling block for all three of these players.

Thus, the dynamic of integrational processes between Ukraine and the EU is rising. Ukraine's involvement in other political and economic integrational processes and projects can take place only within the limits and extent that does not conflict with the provisions of international legal obligations and political agreements reached with the EU, something that official Brussels has pointed out on more than one occasion.⁵³ When it comes to the CIS, EAEC, SES and CU, the maximum integration that Ukraine can undertake with them is to form free trade areas. This applies equally to relations with any other country or association of countries. In terms of security, Ukraine has every reason to increase its involvement in the CSDP.

⁵⁰ Ukraine was given the right to join EU statements and presentations on regional and international issues on 17 May 2005.

⁵¹ In 2010, Ukraine joined 26 of 44 EU statements, for a total of 2,746 as of 20 December 2010. For the complete list, see <http://www.mfa.gov.ua/mfa/ua/publication/content/51108.htm>.

⁵² Ukraine first ran into this kind of situation at the beginning of the 2000s, when the US suggested that it sign a bilateral memorandum to exempt US citizens from the jurisdiction of the International Criminal Court, a position that is in contradiction to agreed positions with the EU. The memorandum was never signed.

⁵³ The most recent instance was when EU Ambassador Jose Pinto Teixeira held a press conference on a related Communication on 26 May 2011.

Civil society impact

Individual community organizations have a limited impact on the Government and its decisions⁵⁴. In order to change this, the only way is to institute European procedures of public consultation, according to which every single voice must be heard. Still, NGO associations from time to time do reach their goals in relations with government agencies and at least their statements and appeals are not ignored the way they were back in 2005. A good example of this is the participation of the Civil Expert Council under the Ukrainian part of the Committee for Ukraine-EU Cooperation drafting the Government decision to set up a centralized mechanism for the horizontal coordination of European integration policy during 2008. Indeed, pro-Russian NGOs, despite all their clout, were unable to compete with pro-European NGOs in terms of affecting state policy.

To ensure that pro-European Civil Society is heard by the Government four main measures are recommended:

- Establishing a universal coordination mechanism between pro-European NGOs and their associations. To achieve this, instituting moderation by the EU Delegation and/or other EU embassies and foundations from EU member governments is needed;
- Preparing EU proposals for Ukraine's Government to involve civil society in decision-making and at different bilateral and multilateral fora, such as the Ukraine-EU summit, sectoral ministerial meetings, and so on;
- Rewriting substantially legislation on Civil Councils under ministries and other executive bodies;⁵⁵
- Involving Ukraine's civil society in drafting of strategic and/or operational documents, which would make such documents more realistic and balanced⁵⁶.

Without sufficient support from international donors to pro-European NGOs, the situation could change radically over a short period of time. A significant number of NGOs will shut down. Some, but not many, will start looking for financial support from other donors to survive, even changing their positions on key political issues. As a result, the Government will face even less pressure from civil society in the process of decision-making on regional integration issues. These trends are not mentioned in the press so far, but informal signals, especially from local NGOs, have been broadly evident in recent months.

⁵⁴ See for instance comments on ENP country report on Ukraine prepared by EP Ukrainian National Platform, <http://eu.prostir.ua/library/248551.html>.

⁵⁵ See Fn. 8.

⁵⁶ For instance, educational reform, which was widely criticized by domestic NGOs, was mentioned in the last ENP country report on Ukraine as "one of the most successful," which effectively gave the Education Minister carte blanche to continue what he was doing. http://www.eeas.europa.eu/delegations/ukraine/documents/euroclubs/enp_report_2010_ukraine_en.pdf

Table 1. The impact of civil society on the reform of regional integration

| Civil society | Business associations | NGOs and academics | International aid projects |
|---|--|--|---|
| Interest group | Entrepreneurs | Experts, think-tanks, advocacy groups | International partners of the Government and NGOs |
| Position on regional integration | Generally in favor of EU integration while maintaining constructive neighborly relations with Russia. Interested in new markets. | Both strongly pro-European and strongly pro-Russian NGOs and academics exist. The former want Ukraine to join the EU; the latter want to see integration with Russia, even a new union of nations. | Foundations and institutes funded by Russia exclusively favor integration with her and are against Ukraine's course towards EU integration. The remainder, funded by the EU, EU countries, the US, Canada, Japan, and so on, support Ukraine's integration into the EU, although some of them also focus on building a constructive relationship with Russia and other partners. |
| Means of influence | Lobbying, funding NGOs | Advising the government, analytical work, public activity, lobbying | Consulting, advocacy, funding |
| Institutional means of influence | Social dialog | Participation in working groups, pro-active position in developing projects, policies and so on | Working groups, pro-active position in developing projects, policies and so on |

Recommendations

Our analysis suggests that, in working with Ukrainian NGOs, the donor community should focus on seven key priorities in regional integration:

- applying the European formula for ensuring public understanding and support for reforms through public consultations. To this end, it is worth initiating cooperation between the Government and civil society to prepare public strategic and/or program documents on regional integration: Green Papers raising issues and White papers offering solutions;
- coordinating European integration policy based on the experience of new EU member states. To achieve progress in this sphere, support for pro-European networks or a universal pro-European platform of NGOs would be very helpful;
- preparing to undertake the AA, together with the FTA, by drafting a National Implementation Program for the AA and engaging in public communication. A comprehensive project to support this work should be implemented without delay. In addition, a number of workshops could be held for officials, business, media and NGOs representatives to study the AA and the implications of its conclusion for Ukraine's future development;
- undertaking trilateral projects involving Ukraine, Russia and the EU. This is one way to bring the three societies together and transform contradictory aspects into complementary ones. Such projects can be implemented on a sectoral basis, starting with energy, on a people-to-people contacts basis and in security;
- expanding in other integrational directions, such as the Black Sea and Danube regions, GUAM, the European security system, and so on;
- providing institutional support for the National Platform of the Eastern Partnership Forum and other pro-European NGOs. This forum can serve as a link between Ukraine's Government and EU institutions and governments. Moreover, it should be a key component in the Eastern Partnership and in involving Belarus in democratization processes;
- reviving Euroregion activities and other forms of cross-border cooperation. This requires special attention from the donor community since the micro or local level of regional integration is sometimes even more effective than macro or state level projects. Euroregions urgently needs special attention in order to bring European values, norms and practices from the local to the central level.