

Is the European Union Supporting Democracy in its Neighbourhood ?



< Richard Youngs (Ed) >

FRIDE
FUNDACIÓN
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Y EL DIÁLOGO EXTERIOR

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Chapter 1

Overview

Assessing European Democracy Support in the Neighbourhood

< Richard Youngs >

This book aims to enhance understanding of the EU's role in promoting human rights and democratic norms. It does this through a detailed study of the full range of different EU instruments available to support human rights improvements and democratic reform in six countries. These case studies are designed to spur debate on how to incorporate democracy and human rights assistance into the mainstream of EU and member states' foreign policy. Our case studies come from the EU's immediate neighbourhood; our analysis relates in part to the specific instruments of the European Neighbourhood Policy (ENP) but is also couched to have broader relevance.

The book offers detailed studies of the extent to which democracy and human rights commitments made under European Neighbourhood Policy action plans and the national bilateral assistance programmes of EU member states are being implemented in practice. It is hoped that these studies can help move debates on the 'European model of human rights and democracy promotion' beyond the general to country-specific operational challenges. The case study authors identify lessons learned and offer concrete policy recommendations on how the EU can increase the effectiveness of its efforts to promote human rights and democracy in its Neighbourhood and beyond.

The book flows from a background of on-going commitments to strengthen democracy support in the EU's Neighbourhood. ENP action plans contain apparently firm commitments to support democratic reform and are subject to a rolling process of review and revision. Part of the ENP's rationale was to tailor such policies more effectively to the particularities of each partner state. The Commission has committed itself to improving democracy and human rights funding under the revamped European Instrument for Democracy and Human Rights. A separate Governance Facility has begun distributing money to neighbourhood partners ostensibly in reward of democratic progress. As this book goes to press, proposals have surfaced to draw up an EU Consensus on Democracy.

Despite all these commitments, the feeling is widespread that in practice European governments have become less committed to promoting political change in many third

countries. Overall the EU is failing to meet the challenges of a more complex international environment for democracy and human rights, having declined fundamentally to reassess its democracy support in either qualitative or quantitative terms.¹ At the same time, doubts have taken root over the institutional design of the ENP, uncertainty persisting over its relationship with both the Euro-Mediterranean Partnership and existing democracy and human rights commitments in the Eastern Neighbourhood. The new Union for the Mediterranean has neglected to include policy commitments on democracy support, raising questions over the possibility that this will undermine existing reform commitments towards Arab partners.

This book results from a joint project undertaken by FRIDE and the European Council for Foreign Relations. A research framework was established to examine the democracy-related and human rights activities carried out by the EU and its member states in six countries : Azerbaijan, Belarus and Ukraine in the East; Jordan, Lebanon and Morocco in the South. These case studies were selected for their diversity. They include reforming and non-reforming states. They cover states aspiring to EU membership and those beyond the reach of potential accession; the Neighbourhood is the area where EU influence is most significant but also where the question is most pertinent of what impact the EU can have without the offer of membership. The case studies also have varied strategic significance for the Union – with Azerbaijan's inclusion providing a test case for the further eastward extension of the Neighbourhood as well as for the impact of energy geopolitics on European democracy policies. Each case study gathers information, based on extensive fieldwork, on the policies of the Commission and EU member states.

Each case study follows a similar structure:

First, the state of democracy and human rights in each respective state is summarised. This provides an up to date picture of the democracy and human rights situation in each state, including the main legislative and political barriers to reform. Detailed assessments are made of both progress made on democracy and reversals suffered.

Second, the impact of geopolitics is examined. The authors identify the geostrategic interests that have cut across democracy support – or that alternatively have intensified the focus on democracy. The differing approaches within the EU to conflicts, counter-terrorism, energy and Russia's rising power are outlined.

¹ For this overview, see Richard Youngs, 'Is European Democracy Promotion on the Wane?', CEPS working paper, Brussels, May 2008.

Third, the EU's new democracy and human rights policies towards each country are described. An overview is given of democracy and human rights commitments and statements made by European governments and the Commission. A summary is given of the main priorities included in the ENP action plans. The authors give a flavour of whether the ENP's human rights and democracy elements engendered debate and controversy and whether action plans were delayed or resisted. Differences between EU member states are also explored.

Fourth, the use of democratic conditionality is examined. Instances of positive and negative conditionality are identified, covering key moments where pressure has not been exerted in relation to democratic and human rights shortcomings and abuses. Authors consider how far ENP commitments have facilitated pressure to be brought to bear where governments are seen to backtrack from democracy; how and where the incentive mechanism of the European Neighbourhood Partnership Instrument (ENPI) Governance Facility has (or has not) come into play; why the promised 'positive conditionality' has not materialised on many occasions; and the nature of reactions of local stakeholders (reformers and opponents of reform) to the question of conditionality.

Fifth, the broader dynamics of engagement and socialisation are assessed. This is to examine whether dynamics indirectly related to democracy have strengthened under the ENP or through member states' bilateral policies, and if so what kind of new initiatives are seen as offering a means of socialising partner states into an adherence to democratic norms.

Sixth, an overview of democracy and human rights assistance is provided. Amounts spent on democracy, governance and human rights assistance, by the Commission and the member states, are analysed. This considers how different donors use different definitions of these terms; the extent to which they have channelled funds through other organisations (such as the Council of Europe or the United Nations Development Programme); whether coordination is improving between European donors; and whether political aid is being blocked by governments. Funding amounts are broken down by different categories, including support for civil society, the rule of law, human rights, elections, freedom of expression, state reform, parliaments, political parties and regional governments. An assessment is made of how the break down of such spending relates to the list of reform challenges and commitments agreed in each action plan/bilateral assistance programme, as the latter supposedly provide the principal guide to policy. This section in each chapter also looks at the different types of recipients of political aid funding and their relationship with the regime in question.

Summary of Findings

The principal observations to be drawn from our exploration of these questions are as follows:

1. In respect of the **state of democracy**, overall trends have been disappointing in most cases. In Morocco a process of modernisation has not entailed democratisation. A number of human rights provisions have been strengthened, but the palace and Makhzen remain gatekeepers of the reform process. The regime has adopted a more confrontational stance towards the Party of Justice and Development, the moderate Islamist opposition party. In similar fashion, some civil liberties have improved in Jordan while restrictions have remained – or even tightened – on the countervailing powers of the parliament, political parties, courts and NGOs. An electoral law fashioned to the regime's advantage has not been reformed; the government has become less accepting of the Muslim Brotherhood opposition; and Jordan remains essentially a 'security state'. Lebanon has stabilised following the formation of a national unity government in July 2008, but this deal in some ways reinforces the country's confessional power-sharing and has diverted attention away from the need for underlying democratic reform.

Having made the formal transition to democracy, Ukraine has failed fully to install a more democratic institutional framework and culture. In Azerbaijan particular concerns include the manipulation of elections and new restrictions on the political opposition and civil society organisations. The regime continues to profess a commitment to democratic reform and claims anti-reform forces within state institutions have impeded implementation. Divisions have begun to appear within the regime, this signalling the best prospect for future reform. Despite the recent release of political prisoners no meaningful political liberalisation has occurred in Belarus, and indeed civil society restrictions and police repression have if anything intensified in recent years.

2. A number of **geopolitical** factors increasingly militate against democracy support more than they have encouraged the EU to focus on democracy more assiduously (this latter being the ostensible logic of European security policies). In Azerbaijan the perception is widespread amongst policy-makers that the opposition would be less cooperative on both energy matters and the 'frozen' conflict of Nagorno-Karabakh (these two issues also being closely related in EU minds, to the extent that renewed conflict in the enclave might endanger the transport of energy supplies through the key energy pipelines out of Baku). In Belarus the relationship between democracy promotion and geopolitics has been judged to be finely balanced: pressure for democratic reform is seen as a potential means of prizing the country away from Russia, but is also seen as risky precisely because of the concern not to damage EU relations with Moscow. The same balance can be seen in Ukraine, where despite the EU's very clear backing for the latter stages of the Orange revolution the 'Russia-first' mentality continues to militate against firmer European support for democratic consolidation.

The Jordanian monarchy is supported as a moderating and mediating player on the Palestinian-Israeli conflict (the Islamic Action Front opposition opposes the peace treaty with Israel and has close links to Hamas in Palestine), as well on counter-terrorism and 'deradicalisation' policies. The Moroccan government is seen as a stabilising ally in the region and a partner in counter-terrorist matters. Policy-makers ascribe priority status to the aim of stemming illegal immigration from and through Morocco; they see this as cutting across democracy support, although invariably without a clear notion of why a less authoritarian system would contradict this objective. In Lebanon the EU's focus has been on diplomatic mediation, pressure for Syrian withdrawal, engagement with Hizbullah and involvement in UNIFIL's stabilisation mandate; in contrast, systemic political reform has not been conceived as a means of conflict resolution.

3. Notwithstanding such geopolitics **European democracy support commitments** have strengthened. Criticism of all states' democratic progress was noted in the first set of ENP progress reports published by the Commission in April 2008 and this was identified as an area for higher priority effort in the future. Morocco and the EU have developed discussions of democracy issues within a reinforced political dialogue and a subcommittee on human rights, democracy and good governance. The country is currently hoping to open negotiations with the EU for an 'enhanced status', under which the EU is likely to strengthen democracy-related commitments. The EU has similarly focused on reform issues more systematically in Jordan within a human rights subcommittee, and under the country's EU development assistance strategy paper for 2007-2013 the Commission has promised enhanced support for Jordan's own set of reform commitments. Formal commitments have similarly strengthened in Lebanon, albeit couched in the more cautious language of conflict mediation, bereft of any clear stress on the complex blockages to political reform.

While similar democracy commitments exist in Azerbaijan's action plan and also within the mandate of the EU Special Representative to the Southern Caucasus, in this case the EU has been keener for the OSCE and Council of Europe to assume the higher profile. Here the EU itself has separated out a new energy partnership from ENP political reform stipulations. The commitments to support democracy appear to be more unequivocal in Belarus and Ukraine, in the former through an unsigned 'shadow action plan' and in the latter now through the mandate for an enhanced (association) agreement.

4. The use of democracy-related **conditionality** remains highly circumscribed. Negative conditionality has been firmly off the agenda in both Morocco and Jordan. The EU refrained from criticising Morocco's 2007 elections, that were controlled so as to prevent a much-expected entry of the PJD into government. Morocco was rewarded with the Governance Facility's first allocation of aid and has benefited from increased military and security cooperation from a number of member states. The EU has increased aid to Jordan to offset the

impacts of the conflict in Iraq. Jordan is one of the world's most heavily aided states, but the EU has declined to seek any leverage this might bestow on the use of conditionality. Far from attaching conditions related to democratic reform in Lebanon, the EU channels much of its aid to this country in a way that actually builds on state institutions' internal confessional quotas.

Belarus is the exception, where targeted sanctions have been imposed and contacts have been developed with key opposition figures, although even here the EU's punitive actions have been less harsh than those of the United States. The EU has gradually moved towards one of its most systematic uses of incentives-based conditionality in its relations with Minsk. In Azerbaijan EU aid to a food security programme was previously halted for a short period, but European policy-makers judge that the Union has little leverage to impose punitive conditionality: the country has no proactive desire for EU accession and external aid is a tiny percentage of oil revenues flowing into the state budget (although a counter-dynamic is that Azerbaijan desires to increase its autonomy from Russia and Turkey). In Ukraine no punitive conditionality was exerted against Leonid Kuchma prior to the Orange revolution, and since 2004 debates have been dominated by the EU's refusal to reward the country's democratic transition by offering a membership perspective. Cynicism is invited by the observation that the EU only began to adopt tough democracy-related conditions towards Ukraine after the issue of accession became pertinent.

5. In terms of **socialisation** dynamics, in all our six case studies Europe's support for educational and cultural links has increased significantly in recent years. Economic integration remains most limited in the case of Azerbaijan, in part reflecting the latter's energy-derived confidence in the pursuit of economic independence. In this case efforts have been made to build links on social reform issues; conversely, offsetting European socialising dynamics in Azerbaijan has been the influence of social links between the latter and Turkey and Russia. In both Belarus and Ukraine educational links and technical cooperation have been of value, but to some degree undermined as socialisation instruments by the prohibitive nature of the EU's visa regimes. A notable focus in Jordan has been support for links between small and medium sized enterprises. In Morocco a notable innovation has been the attempt to associate Morocco with some Common Foreign and Security Policy initiatives. In no case has any specific means been set up to assess whether such initiatives do actually have any impact on the adherence to democratic norms.

6. **Democracy and human rights assistance** remains extremely limited, although increased amounts have been allocated for broader governance reform. Ukraine has benefited from significantly increased amounts of governance aid, but European support remains heavily state-centred despite the space that has opened up to work with and through countervailing centres of political influence. In Azerbaijan, European support to civil society has been especially limited, and indeed policy-makers express an explicit reluctance to increase such

funding. One third of the European Neighbourhood Partnership Instrument has been allocated here for democracy and good governance for 2008-2013; another third to energy, transport and environment. Aid to Belarusian media, civil society and opposition figures has been more clearly political in nature, but also small scale.

In Morocco only 4 per cent of ENPI funds have been allocated to democracy and human rights. Despite the ENPI for the first time allocating significant funds for political reform in Lebanon the focus here remains overwhelmingly on economic governance and capacity-building support for state institutions. In Jordan, the EU has shifted aid towards economic and poverty alleviation objectives and away from public administration reform projects, although a commitment has been made to increase the percentage of Jordan's ENPI receipts going to political reform in general. Member states have been better than the Commission at getting timely support through to civil society organisations in Jordan, albeit with still very small budgets for such projects.

Several trends are observed across the Neighbourhood. The EIDHR generally provides for no more than a handful of projects in each country. In each case only a small number of member state governments have provided non-negligible amounts of democracy and human rights assistance, in general preferring to have such projects run through the Commission. And the general trend has been towards increasing the share of aid given for direct budgetary support (that is, flowing directly into governments' coffers) rather than investing significantly in democracy support. A particularly small share of overall aid has gone to democracy and human rights aims from French and Spanish bilateral ODA in Morocco; the UK remains oriented towards providing principally security cooperation in Jordan.

In sum, our case studies do much to confirm a relatively pessimistic view of democracy policies within the EU's Neighbourhood. Democracy-related challenges are getting harder and political reform processes continue to disappoint despite partner countries having now been in structured partnership with the Union for many years. Within the EU there is an apparent absence of political will fundamentally to revise approaches to democracy support, even if the shortcomings of these policies have been apparent for some time. It is hoped that this book's presentation of case studies from across the Neighbourhood reveals a broad range of lessons that will stimulate further debate on the design of overarching European democracy strategies.



Chapter 2

Morocco

< Kristina Kausch >

While clearly ahead of other countries in the region in terms of human rights and liberalisation, Morocco is still a centrally-steered façade-democracy, not the 'model' of Arab democratisation it likes to be portrayed as. European member states, influenced by other policy priorities such as migration, anti-terrorism co-operation, regional conflicts or trade, are doing little bilaterally to foster democracy in Morocco. This task is largely left to the European Commission, which provides diplomatic cover and has with the European Neighbourhood Policy (ENP) the necessary policy structures in place. The ENP Action Plan for Morocco contains a number of ambitious but selective reforms, which indirectly follow the Moroccan ruling elite's course of modernisation and selective political reforms in carefully chosen areas which do not touch on the distribution of powers. Systemic-level reforms, the precondition for a representative democracy with a balance of power and the rule of law, have been left out.

With the EU's approach to democracy promotion generally being based on partnership, praise of achievements and incentives, both the Commission and member states have been reluctant to put significant pressure on Morocco to commit to structural political reforms. Criticism is more freely voiced in closed bilateral committees. However, beyond the requirements of diplomatic tactics, tame official statements reflect how the favourable light of regional comparison has distorted Morocco's image in Europe into one of a shining model democratiser, when in fact it is rather a smart strategic moderniser surrounded by police states.

European democracy funding to Morocco has increased in recent years but it is still disproportionately low compared to overall official development assistance (ODA). Funding for NGO-channelled European Instrument for Democracy and Human Rights (EIDHR) projects are insufficient to counter-balance the top-down process of selective political reform currently undertaken by the Moroccan regime. The ENP Governance Facility, of which Morocco has been one of the first two beneficiaries in 2007, is a step in the right direction. However, the Facility's incentive power and impact are still limited under the current funding levels and mechanisms of allocation. While positive conditionality is the only viable approach to Morocco, rewards should always be tied to specific achievements.

Morocco's keen interest in greater integration with the EU, and the country's efforts to push the EU towards granting it an 'advanced status' of partnership, provide particularly favourable conditions for the EU to use its leverage to encourage Morocco to commit to a deeper, systematic level of political reform. During the negotiations for an 'advanced status' under the French EU Presidency in the second half of 2008, increased leverage should be used to sharpen implementation mechanisms in the EU-Moroccan Action Plan. The new contractual framework must include a consistent set of comprehensive reforms that lead to a systematic process of democratic transition. In reformulating the Action Plan, concrete measures, timetables and actors for each priority must be specified. Likewise, a new contractual agreement must reflect the 'advanced' partner's maturity by committing to a measurably deeper, advanced level of democratisation. This could provide a proof both for the seriousness of the EU's commitment to democracy and for the now-tame ENP's potential as a framework for democratisation through integration where EU membership is not an option.

The myth of 'Moroccan model' reformism

Morocco typically is held up as a shining example of reform among Arab countries. Indeed, a series of important reform measures has been taken during the last decade, leading to a level of liberalism unseen in the region. Singular measures such as the establishment of an Equity and Reconciliation commission (IER) to deal with past abuses of human rights under the current King's father's regime, the adoption of a new, comparatively liberal personal status law (*moudawanna*), and the King's National Human Development Initiative (INDH) have earned Morocco much international attention and praise. The moderate Islamist Justice and Development party (PJD), while failing to win government after the 2007 legislative elections, has been widely held up as a positive example for the successful integration of an Islamist party into the political process. The level of liberalisation in Moroccan society has been considerable, and in a regional comparison, outstanding. However, hopeful European talk of a regional model of democratisation is misplaced. Political reforms, instead of being steps in a consistent, overarching process towards democracy, have been ad hoc, selective and often superficial. Most importantly, the concentration of all meaningful power in the hands of the palace has remained untouched. With the support of the EU and other international partners, Morocco is modernising and partly liberalising. Both have proved an effective cover for the fact that Morocco is far from, and might not even be heading towards, genuine democracy.

As in other semi-authoritarian countries, political life in Morocco is marked by a constant double reality. Formally democratic structures and institutions veil an informal shadow governance structure, commonly called the *Makhzen*, a network of the palace and its clients that dictates the main lines of policy and acts as a gatekeeper for any kind of political reform. By order of the constitution, King Mohammed VI has a religious and politically supreme

authority which provides his extensive executive powers with a religious, and thus untouchable, justification. The powers are distinguished in law and discourse, but in practice there is neither separation nor balance of powers, with the palace-led executive exerting leading influence over legislature and judiciary. Government and parliament execute the will of the *Makhzen* rather than the will of the electorate. Political parties have so far been too weak to provide meaningful political alternatives. The lack of independence of the highly corrupt judiciary and the gap between legal provisions and their practical use undermine the practical value of many legal reforms. Moroccans implicitly take for granted that the blurred shape of the *Makhzen* dictates the rules of the political game and controls the course of politics.¹

The September 2007 legislative elections were hailed by international observers and political leaders as the most transparent in Moroccan history. Indeed, the admittance of the first-ever international electoral observer mission to Morocco and the involvement of an (EU-funded) domestic NGO electoral observer committee were markedly positive developments. However, the election results have cemented the status quo as, except for the Mouvement Populaire (MP), all parties of the previous five-party-coalition (Istiqlal, USFP, RNI and PPS) have remained in government, including a number of key ministers. In addition, the political message of the low voter turnout (37 per cent, and real participation estimated at less than 24 per cent) was largely swept aside. Moreover, contrary to a widespread European perception, the Justice and Development Party's (PJD) surprising failure to secure its participation in government was a setback for Moroccan political reform. While a government including the PJD would at least have meant a potential reshuffle of the terms of negotiation, the new Istiqlal-led government will basically mean more of the same, changing the face but not the course of the political elite.²

The apparent inability to have a meaningful impact on the course of political decision-making has led to increasing resignation among the Moroccan voter. A shrinking voter turnout throughout a decade of political liberalisation and modernisation (dropping sharply from 58 per cent in 1997 to 52 per cent in 2002 and 37 per cent in 2007) suggests not only that voter turnout figures are less manipulated than before, but also that reforms have failed to engender confidence that elections have any meaningful impact on daily lives. While the reforms that have taken place are valuable in and of themselves, they lose attraction to reform minded citizens to the degree that they are instrumentalised to replace a genuine process of democratic transition.

With the ruling elite of the *Makhzen* (which is not monolithic but includes more and less reformist factions and individuals) holding on to power and effectively controlling access to

¹ This disenchantment is also reflected in Transparency International's Corruption Perceptions Index 2006 and Global Corruption Barometer 2006, available at <http://www.transparency.org>.

² See also Kristina Kausch: 'Elections 2007: The Most Transparent Status Quo in Moroccan History', *Mediterranean Politics*, Vol. 13, Nr 1, March 2008

political decision-making, it is not against but only *with* the palace that political reform could be made systematic and genuine.

The switch from open repression to a semi-authoritarianism with formally democratic structures and discourse in Morocco and elsewhere in the region suggests that incumbent regimes increasingly see open repression as less sustainable than making concessions to liberalism as a way to retain power and privileges.³ Consequently, the likeliness of a genuine democratic transition in Morocco increases to the degree the ruling elite sees giving up some powers as the only way of retaining others. As the space for manoeuvre for Moroccan democracy activists in NGOs and parties is widening, so is the likeliness of significant pressure from within being exerted on the palace.

Moroccan civil society is known for being vibrant and (excluding Western Sahara), with a few exceptions largely free to develop its activities. While political taboos in general are softening, many who touch upon the few remaining taboos such as the monarchy, the distribution of powers, or independence for Western Sahara, are soon muted by either legal action or denial of a meaningful audience. Broadcasting media, the only media with a nationwide coverage, are effectively controlled by the state. The independent press, in spite of its limited outreach, does shape the agenda of political debate among Casablanca and Rabat intellectuals. Recent less subtle clampdowns on regime-critical journalists and other opposition figures display the increasing nervousness of the *Makhzen*. The ruling elite's vision for Morocco, as many Moroccans point out, appears to be one of prosperity via modernisation, rather than by democracy. The challenge for advocates of genuine Moroccan democracy, both inside and outside Morocco, is to generate meaningful pressure on the palace and strengthen the reform-minded parts of Moroccan society, while at the same time avoiding an open confrontation that might jeopardise the palace's will to cooperate. The Moroccan leadership's keen interest in greater integration with the EU via an 'advanced status', coinciding with the revision of ENP Action Plans in 2008, may be a crossroads in EU-Moroccan relations providing the opportunity which the EU must seize.

Intervening factors, contrasting interests

While the anti-terrorism agenda in response to 9/11 changed priorities in the region towards democracy as a way to enhance security, recent years have witnessed a decreasing interest among European policy-makers in actively promoting democracy in the Southern

³ Steven Heydemann: 'Upgrading Authoritarianism', Analysis Paper Nr. 13, Brookings Institution, October 2007.

Mediterranean. Among the main reasons, diplomats in Brussels list the greater importance of the energy agenda and other economic priorities, the dominance of the Arab-Israeli conflict, the lack of personal commitment of key political figures both at EU level (Solana) and in the leaderships of the member states (Chirac, Berlusconi, Schröder, Zapatero, Sarkozy), the generally low interest in North Africa (reflected by aid figures), as well as the general policy dilemma that democracy promotion policies do not deliver quick results to be presented to the electorate.

Spanish and French diplomats confirmed that due to stronger ties and common interests rooted in geographical proximity, Southern Mediterranean member states focus much more on the bilateral relationship with the Maghreb countries, and share a “greater sensitivity” and reluctance towards actively pushing for political change. With the Moroccan coast visible over the Straits of Gibraltar, Mediterranean EU member states are particularly concerned with migration, regional security, free trade and fisheries. The Northern countries, looking more to the East than to the South, take comparatively little interest and often leave the field to France and Spain when it comes to shaping Europe's relations with Morocco. As more is at stake at a higher level of engagement, however, the two EU states most influential in Morocco are also the two least inclined to promote democratic reform.

Migration is a crucial issue in EU-Moroccan relations and a vital interest to both. Management of border controls and the speedy finalisation of negotiations on a readmission agreement are of particularly pressing European interest in this regard. Spain and France have been both most affected by illegal migration from the South, and also have the largest Moroccan immigrant communities. Morocco, under increasing pressure as a transit country for migrants from the South, seeks enhanced European assistance for border controls and a lowering of the barrier for legal work migration. Harsh immigration laws especially in France contrast with Moroccan interests. However, illegal immigration to Southern Europe was reported to have been halved during 2007. In 2002-2004, the Commission allocated 40M€ to Morocco for migration management and border control.⁴

Regional security is a pressing concern which often clashes with democracy policies. Against the background of regional conflict, transnational terrorist networks, trafficking of human beings and organised crime, Europeans value Morocco's stabilising influence in the region, and are reluctant to risk this for the sake of 'optimising' Moroccan democratic standards. By a similar token, Europeans value Morocco's moderating influence over the states in Sub-Saharan Africa, whose demands it has been translating into softer terms more likely to be acceptable to European partners. A diplomat in Brussels admitted that the Arab-Israeli conflict was

⁴ National Indicative Programme for Morocco, 2002-2004.

“taking over all the attention”, drawing away attention and capacities from a comparatively ‘easy’ case like Morocco. Morocco is also one of Europe’s main partners in the fight against terrorism. A British diplomat noted that initial UK efforts to promote democracy in the region had given way to an increasing focus on activities “with a more discernable link to countering terrorism”, with concerns for root causes largely “sidelined”.

Security and trade concerns partly explain the strong European backing of Morocco within an UN-led solution to the Western Sahara conflict. When asked about Western Sahara, some European diplomats in Rabat point to the European non-recognition of Morocco’s claim to Western Sahara and their consequential lack of competence in this regard. France’s clearly pro-Moroccan position has remained constant under Sarkozy.⁵ Spain under Zapatero switched to a markedly uncritical pro-palace posture, which earned Zapatero much criticism at home, including by some Spanish MPs accusing the government of “submission” to the Moroccan government and selling the interests of the Saharawi people for the price of economic advantages.⁶ However, the partly ambiguous stances of Europeans regarding Western Sahara did not entirely prevent them (especially the Brussels institutions) from criticising Morocco’s policies in the region. Human rights violations, legal and practical restrictions to freedom of association and expression, and the use of disproportionate force by the Moroccan authorities have repeatedly been raised in EU official documents. In the EU-Moroccan *dialogue politique renforcé*, Western Sahara plays an important role, not least because the conflict directly damages a number of other EU interests, including the establishment of a regional free trade zone.

Against the background of the rise of political Islam across the region, many European observers hope for positive regional spill-overs from Morocco, as the Moroccan Justice and Development Party (PJD) is seen as providing a far better model for a potential Islamist government than others in the region, notably Hamas. In spite of this, Europeans have so far been rather ambiguous towards the PJD. With the PJD having been predicted to form part of the government after the September 2007 elections, many European governments embarked on some cautious but constant engagement. However, the prospect of an Islamist-led government on the other side of the Straits of Gibraltar was still received with a certain emotional awkwardness, and the PJD’s failure to get into government after the September 2007 elections provoked a sigh of relief on the Northern shores of the Mediterranean.

EU member states account for 75 per cent of Morocco’s export volume, and 59 per cent of its imports.⁷ The planned creation of a Euro-Mediterranean free trade zone by 2010

⁵ On his first state visit to Rabat Sarkozy gave a speech before the Moroccan parliament which was later qualified by a Saharawi representative as ‘an encouragement to irreconcilability’. See Stéphanie Blasse: ‘Nicholas Sarkozy, Mohammed VI: une amitié économique’, *Afrik.com*, 25/10/2007.

⁶ Hearing of Foreign Minister Moratinos before the Spanish Senate, 25 April 2007, www.maec.es

⁷ Figures for 2003, Moroccan Ministry of Foreign Affairs and Cooperation, <http://www.maec.gov.ma>

makes any potential obstacle to free trade in the region a priority concern for EU interests. The royal palace has large stakes in the Moroccan economy, and some European companies are reported to benefit from special privileges and toe the political line of the *Makhzen* in order to retain them (e.g. BMW reportedly withdrew advertisements from a popular regime-critical magazine). France is Morocco's biggest trade partner (accounting for 18% of imports and one-third of exports in 2005).⁸ Nicolas Sarkozy appeared to stay true to the country's reputation as a stability- and trade-oriented patron in the Maghreb. On his first visit to Morocco as president of France, he secured large business contracts for French companies, with an estimated total volume of 3bm€ (among them TGV trains for 200m€ and military frigates for 500m€), and French commentators cheered on his return: "in Morocco it's raining contracts".⁹

In the light of Europe's urgent need to diversify its energy supply against the background of high oil prices and deteriorating relations with Russia, Morocco also gains importance as an energy transit country, especially for gas from Algeria. A joint EU-Moroccan declaration on energy cooperation was signed in July 2007 as part of the EU's current regional efforts to promote integration of Middle East and North Africa (MENA) and EU energy markets, inter alia supposedly to open up additional energy supplies to Europe.

A number of bilateral disputes have interfered with smooth EU-Moroccan relations in recent years. France clashed with Morocco in October 2007 when a French judge issued international warrants against several senior Moroccan officials for being implicated in the disappearance of Moroccan dissident Mehdi Ben Barka in Paris in 1965. More controversially, Spain's periodical rows with Morocco over Parsley Island and the Spanish enclaves of Ceuta and Melilla (most recently seen in relation to the Spanish King's visit to the enclaves in late 2007) have led to temporary withdrawals of ambassadors. A Spanish public prosecutor also filed cases against a number of high Moroccan officials for genocide in Western Sahara.¹⁰ None of these disputes, however, are likely substantially to damage relations in the longer run.

European democracy policies towards Morocco

Democracy promotion as part of development programmes in Morocco is undertaken above all by the European Commission and, to a far lesser degree, by some of the member states. The Commission's democracy efforts are seen by many member states as complementary to their own development policies, providing the necessary "scale and diplomatic cover" which member states are unable or unwilling to deploy bilaterally. Several

⁸ French Ministry of Foreign Affairs, http://www.diplomatie.gouv.fr/en/country-files_156/morocco_285/index.html

⁹ Driss Bennani: 'Le Sarko Show', Tel Quel, October 2007; Stéphanie Blasse: 'Nicolas Sarkozy, Mohammed VI: une amitié économique', Afrik.com, 25 October 2007.

¹⁰ 'Garzón abre diligencias por un delito de genocidio de Marruecos contra el Sáhara Occidental', El País, 30 October 2007.

diplomats in Brussels and Rabat argue that the Commission's democracy activities make member states' bilateral efforts redundant, as the issue is "already taken care of". While many member states had regional programmes aspiring to contribute to democratisation in the Southern Mediterranean, on a bilateral basis member states undertook only a few democracy-related low-key projects in Morocco, mainly aimed at strengthening governance capacity, human rights, and social development.

Morocco was among the first countries to sign an ENP Action Plan¹¹ with the EU. Priority objectives¹² and measures identified under the chapters "democracy and the rule of law" and "human rights and fundamental freedoms"¹³ include capacity building in public administration, decentralisation, access to justice, modernisation of courts, prisons and legal procedures, support to implement the IER recommendations, adherence to and compliance with international conventions, combating corruption, strengthening dialogue on human rights, freedom of association and expression, women and children's rights, and cultural and linguistic rights.

Envisaged measures, however, do not always clearly contribute to the declared objective. Moreover, some of the objectives that appear more political at first sight turn out to be largely void of meaningful political content in practice, entailing mostly projects of modernisation, equipment, capacity building, exchange of experience and similar. Crucially, the Action Plan fails to specify timeframes, actors, implementation and evaluation mechanisms that define how and when the envisaged objectives are to be achieved. The latter has been widely criticised, including by the European Parliament¹⁴ and by a number of Moroccan human rights NGOs consulted by the Commission in 2007 to evaluate implementation of the Action Plan. These NGOs demanded that the Action Plan be "reformulated within a logical framework that will highlight better-defined goals as well as the actors, timelines, and financial and human resources needed for each action".¹⁵

In a 2004 in-house assessment¹⁶ of the political, social and economic situation in Morocco, the Commission identified a number of shortcomings, including some fundamental, systemic criticism such as the lack of respect for the constitutional principle of the separation of powers, the limited powers of parliament and government, the lack of independence of the judiciary, the weakness of political parties, and civil society's limited ability to impact on major

¹¹ EU-Morocco Action Plan, http://ec.europa.eu/world/enp/pdf/action_plans/morocco_enp_ap_final_en.pdf

¹² The Action Plan (jointly adopted in July 2005 for a period of 5 years) identifies 'legislative reform and international human rights standards' as one out of nine priority areas. Other priority areas include: counter-terrorism; trade liberalisation; creation of a favourable investment climate; poverty reduction; education and training; migration; transport; and energy.

¹³ Objectives and measures included in other chapters of the action plan may also be indirectly relevant to democracy.

¹⁴ European Parliament Resolution of 6 September 2007 on the Functioning of the Human Rights Dialogues and Consultations on Human Rights with Third Countries (2007/2001 (INI)).

¹⁵ Euro-Mediterranean Human Rights Network (EMHRN): 'Human Rights in the EU-Morocco Action Plan under the European Neighbourhood Policy', November 2007, p. 6.

¹⁶ Commission of the European Communities: European Neighbourhood Policy Country Report Morocco, COM (2004) 373 final.

political decisions. Although this sound assessment was claimed to provide a basis for future evaluation, most of these deeper structural reform requirements got lost in the formulation of the Action Plan. This has left a collection of piecemeal political reform measures which are not likely to contribute to a genuine democratisation, as most of the preconditions for many of the measures to take practical effect are left out (reflecting the 'scatter-gun approach'¹⁷ which characterises EU democracy policies in the region in general).¹⁸

Asked about this structural gap in EU democracy policies towards Morocco, some European diplomats point to the "irreversibility" of Moroccan democratisation, the need for a "gradual" process and the "accumulative" effect selective reforms will have in the long run. The EU's assumption of socialisation via a gradual reform approach applies only partly to Morocco, however, as the accumulation of more or less connected ad hoc reforms is not automatically a process, let alone a transition to democracy. The priorities in the political chapters of the ENP Action Plan indirectly support this flawed logic by focusing on a collection of selective modernisation measures, rather than on a coherent strategy that includes the more delicate aspects of systemic level change previously identified as crucial by the Commission's own assessment.¹⁹

Several European diplomats ascribe this gap to the requirements of consensus-building in the process of negotiation of an agreement with common ownership. At the same time, many point to the undeniable advantage of having a mutually agreed plan of reform priorities to which they could officially hold the Moroccan government accountable. Equally positive, unlike most other contractual agreements, Action Plans allow closer monitoring via the list of relatively specific legal, fiscal and auditing measures the partner government has committed to implement. At the same time, a Council staff member emphasised the Action Plan was a non- legally binding guideline which "should not be seen as a Bible".

In a 2006 resolution on the ENP, the European Parliament underlined the "aim of not settling for the status quo but of committing the European Union to support the aspirations of the peoples of our neighbouring countries to full political freedom".²⁰ For the time being, however, both discourse and action suggest that European policies towards Morocco do not aspire to back full political freedom and genuine democracy in Morocco. EU documents and statements about Morocco so far leave no doubt that reforms are expected within the boundaries of the current Constitution and distribution of powers. A French diplomat decidedly rejected any policy linked to regime change, and less emphatically, most member

¹⁷ Richard Youngs: 'Europe's flawed approach to Arab democracy', Centre for European Reform, October 2006.

¹⁸ For a comprehensive, systematic overview on EU democracy policies, see: R. Youngs (ed): 'Survey of European Democracy Promotion Policies 2000-2006', FRIDE, May 2006, available at www.fride.org

¹⁹ For a comparison between Commission country report and Action Plan for Morocco, see also Elena Baricani: 'From the EMP to the ENP: A new European pressure for democratization? The case of Morocco', Centre for the Study of European Politics and Society, June 2005.

²⁰ European Parliament Resolution on the European Neighbourhood Policy (2004/2166(INI)).

states share this view, "at least for the time being". Commission staff stress that in the relationship with their Moroccan interlocutors, "some things are clearly off-limits", and that they can "do little more than support Morocco in the gradual reform course it has committed to", while trying to concentrate on those areas where change is likely to be achieved soon. One EC diplomat stresses that, against the background of failed international attempts to 'impose' democracy, "we are now lowering our ambitions". A common line from Southern European member states with a colonial history in the Maghreb is that Europeans could not "tell others what to do" and did "not wish to give others lectures". An overarching line stressed by both Northern and Southern European diplomats alike is that genuine change needed a change of mentality which could only be achieved in the long run via incentives, dialogue, confidence-building and showing the cost of non-reform. One EC diplomat summed up: "we know everything is being manipulated, but progress is unavoidable – just trust in the Moroccan people".

EU documents and public statements on Morocco typically stress Morocco's firm commitment for the democratic reform process and its outstanding position in the region. Reflecting its anti-confrontational approach, the Commission has been praising positive Moroccan reform measures on a regular basis. In contrast to most member states, however, EU statements are not without explicit criticism, and have on various occasions openly stressed democratic shortcomings. While the EU's general reluctance to open criticism takes account of the *Makhzen's* position as a gatekeeper for reforms, praise does not automatically equal incentive. Formulations are typically couched in a conspicuously relative language, emphasising not Morocco's absolute achievements but its relative position compared to its villain neighbours. Morocco's regional leader status has so far been a basic underlying assumption of EU assessments on the Moroccan political situation. In addition, some EU statements and official documents praise highly flawed or incomplete reforms.²¹ Such an incoherent 'applause-policy' creates a distorted image of what the EU perceives as the reality of Moroccan political life, thereby indirectly bolstering the ruling elite and weakening the position of Moroccan democracy activists. As mentioned above, the April 2008 ENP progress report on Morocco which breaks with this habit by systematically expressing explicit criticism of democracy and human rights shortcomings may be seen an indicator that the Commission is adapting its approach to Moroccan political realities. At the same time, however, the comprehensive sectoral progress document published at the same time did not contain any explicit assessment of democracy and human rights developments, and Commissioner Ferrero-Waldner's press release for the occasion portrayed the ENP as a "success story" and did not mention democracy and human rights at all.²²

²¹ This has happened for example with regard to the IER recommendations (for which the King has harvested much international praise but the essence of which remains without being implemented), the political parties law, the law on the audiovisual sector; the press code etc.

²² Commission of the European Communities: 'Implementation of the European Neighbourhood Policy in 2007: Sectoral progress report', SEC(2008)403, 3 April 2008; 'Europe deepens ties with its neighbours and supports their reforms', Press Release IP/08/509, 3 April 2008.

Reactions to the comparatively transparent but democratically meaningless September 2007 legislative elections were conspicuously positive across the board. The Portuguese EU Presidency expressed its “satisfaction” over the elections, saying that the “democratic conditions” in which these had taken place were “a testament to Morocco’s commitment in the reform process”.²³ Nicolas Sarkozy wrote a letter to King Mohammed VI in which he expressed his “admiration for the democratic robustness your country has once again demonstrated”.²⁴ Spanish Foreign Minister Miguel Angel Moratinos characterised the low voter turnout as “a proof that the elections were totally free”.²⁵ High Representative Javier Solana classified the elections as proof of “Morocco’s political maturity”.²⁶ European reactions across the board praised Morocco for the elections’ transparency and for admitting the first ever international election observer delegation, but the political message of the low voter turnout was disregarded. Several European diplomats stressed the dilemma of raising concerns over the low voter turnout with the Moroccan authorities while low participation in elections was also a common problem in European member states. In the human rights subcommittee, however, the Commission did suggest to its Moroccan counterparts that the low voter turnout might be an indicator that voters do not see their votes translated into meaningful change. Commission staff in Rabat said there were “absolutely no illusions” over the fact that the elections had, in a subtle manner, “rather strengthened the palace than weakened it”, but that the advances in electoral procedure were “an achievement that must be valued”.

Conditionality

In its 2004 ENP Strategy Paper, the Commission states that “the privileged relationship with neighbours will build on mutual commitment to common values principally within the fields of the rule of law, good governance, the respect for human rights, the promotion of good neighbourly relations, and the principles of market economy and sustainable development”; and that the “level of ambition of the EU’s relationships with its neighbours will take into account the extent to which these values are effectively shared”.²⁷

Europeans, being generally reluctant to use coercion to promote democracy, have been even more circumspect in a comparatively positive setting such as in Morocco. In this case no practical negative conditionality has been applied. Indeed, in the absence of the use of punitive measures, the Moroccan case has been notable for the use of different incentives entailed in

²³ EU Presidency statement on the parliamentary elections in Morocco, 8 September 2007.

²⁴ ‘Elections Législatives au Maroc: Lettre du Président de la République, M. Nicolas Sarkozy, adressée au Roi du Maroc, Sa Majesté Mohammed VI’, French Ministry of Foreign Affairs, 9 September 2007.

²⁵ Spanish Ministry of Foreign Affairs, <http://www.maec.es>

²⁶ Javier Solana, Haut représentant de l’UE pour la PESC, félicite le Maroc pour le bon déroulement des dernières élections législatives’, 10 September 2007.

²⁷ Commission of the European Communities: European Neighbourhood Strategy Paper, COM (2004) 373, 12 May 2004.

development cooperation, even though these have not always been linked to clear and transparent conditions. The focus on incentives and praise of achievements is certainly more promising in the push for democratisation in Morocco; however, the leverage the EU has due to the close EU-Moroccan relations and to Morocco's substantial interest in further integration has so far not led the EU explicitly to express remaining political challenges in a systematic manner. By contrast, in relation to economic reforms, the Commission has not hesitated to do just that. While the explicit mention of shortcomings and remaining challenges to democracy has been made in a number of EU statements, this remains an exception rather than the rule. At the same time, the April 2008 ENP progress report for Morocco may indicate some change in this regard, as it addressed both achievements and shortcomings in an unusually systematic and explicit fashion. Moreover, this progress report also drew a somewhat more realistic picture of the Moroccan political reform process than previous assessments, inter alia by recognising the low ambition of reforms regarding democracy and human rights in the EU-Moroccan Action Plan, by the selective nature of reforms in a number of areas, by the persistent dysfunctionality of the judicial system which is voiding many reforms of their meaning, and by the limited significance of elections prior to a substantial strengthening of the role of parliament.²⁸

In 2007, Morocco was, along with Ukraine, the first ENP partner country to receive additional allocations from the 'Governance Facility', an additional fund rewarding countries that have made most progress in the field of democracy and human rights, according to agreed commitments.²⁹ The additional allocation of 28m€ to Morocco would send, it was hoped, a strong positive signal across the region and help the Moroccan government support key elements of the reform agenda. The possibility to use the funds allocated under this new facility for any of the agreed priorities (not necessarily for governance projects) was argued by the Commission as enhancing the attractiveness of the incentive (but criticised by the European Parliament).³⁰ Morocco used the additional funds for the modernisation of its public administration, poverty reduction, social services and education programmes.

Progress in implementing the respective Action Plan priorities would be the first criteria in order to determine which countries would receive allocations under the Governance Facility each year. In a February 2008 non-paper outlining the principles for implementation of the Governance Facility, the Commission stressed that rewarding relative progress rather than absolute levels of attainments, and recognition of achievements rather than criticism of shortcomings, were among the basic principles for assessment of progress in democratisation, stressing that a "number of partner states have been reluctant to establish ENP Action Plans

²⁸ Commission des Communautés Européennes: 'Mise en oeuvre de la politique européenne de voisinage en 2007: Rapport de Suivi Maroc', SEC(2008)398, 3 April 2008.

²⁹ Commission of the European Communities: 'Strengthening the European Neighbourhood Policy', COM (2006) 726,

4 December 2006.

³⁰ 'The European Neighbourhood Policy – How the EU is making a difference in partner countries', MEMO/07/548, 5 December 2007.

precisely because of the conditionality aspects that these entail".³¹ In a draft version of the same paper, it was added: "For this reason (...), it will be essential to avoid any sense of castigation of partners whose performance has not warranted increased allocations, concentrating solely on applauding the achievements of the best performers."

The draft also alluded to the allocation to Morocco as a good example of the positive "signalling effect" and visibility, with the measure having been "well advertised in the media and successfully presented by the Government as justification and encouragement for its continued reform efforts". Such a positive signalling effect surely exists at a regional level – whether the signalling effect of this allocation will be as positive domestically, however, is at least questionable, as it is likely to bolster the position of the ruling elite rather than true reformist forces. In this regard it would also be desirable that the detailed grounds on which the EU has taken this decision – beyond general allocation principles and the usual commonplaces about the positive Moroccan reform process and its flattering position in regional comparison - were made available to the public. The presumed signalling effect could also be much stronger if funds for the Governance Facility were substantially higher, if NGOs were involved in the process of allocation (giving greater credibility and visibility to the reward), and if allocations were granted as a reward for specific reforms rather than for unspecified general 'progress'. Several European diplomats underlined that the conditionality potential of the Governance Facility to Morocco remained negligible as long as "the sums involved are not high enough to change a government's mind". A UK diplomat added: "you cannot bribe a country into political reform." However, a raise of funds for the Governance Facility in the following years was envisaged in case the instrument proved as useful as expected.³²

While the assessment of relative rather than absolute levels of progress has the advantage of facilitating the regional and global comparison of the impact of EU policies in different countries, it also bears the risk that absolute shortcomings of better-performing countries like Morocco are neglected due to being surrounded by more or less fully-fledged autocracies. The result of such a minimum-level approach to democratisation on the other side of the Mediterranean is not only totally at odds with the EU's declared values and policies, but also appears hardly sustainable against the background of migration, radicalisation, and growing discontent of an overly youthful population.³³

In the ENP the EU is dealing with partner countries of strongly varying levels of political liberalism. A semi-autocratic partner like Morocco, that largely adopts the discourse but not the essence of democracy, requires a different approach than a more openly repressive

³¹ EC non-paper 'Principles for the implementation of a Governance Facility under ENPI', 22 February 2008.

³² Ibid

³³ See also Michael McFaul / Tamara Cofman Wittes: 'Morocco's Elections: The Limits of Limited Reforms', *Journal of Democracy*, Vol. 19, Nr. 1, January 2008.

country. Some Moroccan civil society activists see their efforts for genuine democracy in Morocco hampered by the fact that the country is seen internationally as “one of the easy cases”, which reduces international pressure on the government and casts all flaws in the softening light of regional comparison. Some even blame the EU for the discriminatory hypocrisy of having different understandings of democracy with regard to the Northern and Southern Mediterranean, implying a sense of discriminatory Arab exceptionalism. As a Swedish diplomat put it, “democracy promotion is not mainly a matter of money but of political courage”. As the ENP matures and Morocco (at time of writing) is negotiating an ‘advanced status’ in its relations with the EU, the EU too should differentiate its approach and move up a gear by posing ‘advanced demands’ to an advanced partner.

Does ‘socialisation’ work?

Some largely apolitical socialisation measures are often said indirectly to benefit Moroccan democracy in the longer run. In 2002-04 the Commission spent 50m€ on vocational training and 8m€ on Morocco’s participation in the TEMPUS programme (for which in 2005-6 an additional 8m€ was added). In 2007-10 EC allocations included 60m€ for human development (INDH), 17m€ for literacy, 93m€ for education, and 50m€ for vocational training.³⁴ France spent 90m€ on education (accounting for 25% of French commitments in 2002-04);³⁵ Spain spent 6.5m€ on education in 2006 (14 % of Spanish ODA).³⁶

The Spanish initiative for an Alliance of Civilizations, drawn up by the Zapatero government as a counter-terrorism measure in the aftermath of the 2004 Madrid bombings, was picked up by the UN and developed into a mechanism of intercultural dialogue. Activities in the fields of youth, media, education and migration were aimed at countering extremism and radicalisation, but had no aspiration or discernible link to fostering political reform. More recently, the French initiative to overhaul and revitalise the Barcelona Process via a “Union for the Mediterranean”, in principle approved by the Council in March 2008 and to be further developed under the French EU Presidency,³⁷ is likely to shape debates in the Mediterranean in the second half of 2008. French government representatives assured that the new Union would be essentially non-political, with co-operation in decidedly economical and technical matters, essentially “avoiding the deadlock of the Barcelona Process”. Analysts agree that the French President’s hope was precisely not to “promote the principles of the rule of law and democracy in the Maghreb, but that it will facilitate trade”.³⁸ Not surprisingly, the Moroccan government promptly assured its support.³⁹

³⁴ National Indicative Programmes for Morocco, 2002-2004, 2005-2006, 2007-2010.

³⁵ DgCID: ‘La Coopération de la France avec le Maroc, Evaluation Partenariale Maroco-Française (1995-2005)’, May 2007.

³⁶ Moreover, in 2007, a number of institutional twinning projects were launched by the Commission, including one on good local governance (in cooperation with the French Ministry of Interior).

³⁷ Council of the European Union : Presidency Conclusions, Brussels 13/14 March 2008.

In 2003 Morocco was the first ENP partner country to agree to the establishment of a 'subcommittee on human rights, democratisation and governance' to the EU-Moroccan Association Council. The subcommittee, which held its second annual meeting in November 2007, provides the main institutional structure for EU-Moroccan dialogue in this domain. According to European diplomats, the subcommittee meetings are considerably more open and explicit than official discourse, with the second having been more frank and "relaxed" than the first. The meetings have led to a number of additional commitments on the Moroccan side, including lifting some reservations against a number of international conventions and protocols, and reportedly have increased mutual trust among the parties, which diplomats judged just as important as concrete commitments.

In closed committees such as the EU-Morocco Association Committee and the Subcommittee on Human Rights, Democratisation and Governance, EU representatives do stress the need for in-depth political reform that makes elections meaningful, and explicitly encourage the Moroccan authorities to undertake structural reform to this end. However, it is at least doubtful to what extent such demands will bear fruit if they are mainly expressed in closed bilateral committees. To some European diplomats this is above all a matter of tactics due to the diplomatic delicacy of such demands, while to others it is an expression of a lack of interest on the part of the EU to give greater priority to in-depth democratisation in Morocco. Again to others demands for reform may be stepped up when a longer process of successful and constructive co-operation has led to a relationship of mutual trust. Some also stressed the Moroccan administration's own need to mature in a learning process of a traditional society heading towards modernity.

The November 2007 subcommittee meeting focused on judicial cooperation and included representatives from EU institutions, several Moroccan ministries as well as some representatives from the Moroccan Consultative Council for Human Rights (CCDH). Most tellingly, while all member states had been invited to attend, only representatives from the Mediterranean EU states and the UK found their way to the meeting. The Northern European countries, supposedly known as most committed to democratic reforms, were conspicuously absent (except the Netherlands, represented by an intern). After the meeting, several EU and member states representatives expressed astonishment over the presence of the CCDH as a non-governmental "counterweight" and their open and far-reaching criticism of the Moroccan government, which was seen as a proof of the genuineness of the Moroccan regime's democratic commitment. Others, however, rather cautiously suspected that the admittance of the CCDH, a de facto government-controlled body, as well as the

³⁸ Michaela Wiegel: 'Sarkozy's Devalued "Diplomacy of Values"', *Frankfurter Allgemeine Zeitung / Qantara.de*, 2007.

³⁹ *Maghreb Arabe Presse*: 'Morocco to strongly adhere to Mr. Sarkozy's Mediterranean Union Initiative', 6 July 2007.

criticisms mentioned were not likely to have been any surprise or even inconvenience to the Moroccan authorities, thereby echoing analysts' widespread assumption that the *Makhzen* follows a strategic line to circumvent genuine reform.⁴⁰ One EC diplomat admitted that there was controversy within the Commission and among member states representatives over the degree to which such and other moves formed part of a deliberate strategy by the Moroccan leadership to present itself towards Europe in a certain light (with diplomats' judgements of this assumption ranging from "Machiavellian" to "taken for granted").

Whatever the degree of the *Makhzen's* genuine commitment, the subcommittee potentially provides both a forum for true and open exchange and a fig leaf arena (for both sides) to raise democracy concerns only where nobody can hear them. The possibility of having dialogue on the more delicate issues of democratisation at a non-political level and behind closed doors was stated to be the very "raison d'être" of the subcommittee, as it was considered a "learning exercise" which was "better than no talk at all". Commission staff also reported how some of their more genuinely reform-minded Moroccan interlocutors had during negotiations argued they would not be able to 'sell' certain reform demands to their Ministry at home, so the parties had agreed to "not risk the process and keep it in mind for the subcommittee". A 'talking club' behind closed doors which failed to produce tangible results but provided both the EU and the Moroccan regime with a democratic gloss, however, would undermine the very objective of the subcommittee.

The Moroccan leadership, keen on further integration with the EU, has seen the ENP as a step towards the 'advanced status' it has long been calling for, including the option of a new contractual framework. Significant steps for Morocco's further political integration with the EU have already taken place in a number of areas, including a proposal made to Morocco to align itself on a case-by-case basis with EU Common Foreign and Security Policy (CFSP) statements, and the participation of Moroccan troops in the EU operation ALTHEA in Bosnia and Herzegovina. Preparatory mechanisms for negotiations on the 'advanced status' have been set up by the EU-Moroccan Association Council of 23 July 2007, and Commissioner Ferrero-Waldner announced the setting up of an ad-hoc working group to elaborate the details, with an agreement planned to be finalised under the French EU Presidency. The ambition of further integration with the EU gives the EU additional leverage over Morocco to include concrete measures, modes of implementation, actors, and deadlines in a reviewed Action Plan, and eventually in a new contractual agreement (both to be treated at the next Association Council under the auspices of the French EU Presidency in mid-October 2008). In early December 2007, however, the Commission recognised the need for improvement

⁴⁰ See also Marina Ottaway / Michele Dunne: 'Incumbent Regimes and the "King's Dilemma" in the Arab World: Promise and Threat of Managed Reform', Carnegie Endowment for International Peace, December 2007.

of ENP, and envisaged a roll-over of Action Plans in 2008 “with no change in substance” but focusing on implementation of existing commitments.⁴¹

EU development assistance for democracy

The European Commission has been funding democracy-related projects through a number of different budget lines. Democracy-relevant measures in Morocco have largely been funded via MEDA/European Neighbourhood and Partnership Instrument (ENPI), the funds of which are negotiated with and channelled through governmental bodies. On a much lower scale, the European Instrument for Democracy and Human Rights (EIDHR)⁴² has been funding projects that are implemented directly by Moroccan NGOs or international organisations.

Between 2003 and 2006, the EIDHR funded NGO micro-projects in Morocco with a volume of 2 million €. Annual EIDHR funding increased (see table), but still remained very low in relative terms, representing only 2 per cent of Commission funding to Morocco. Most of the micro-projects financed via the EIDHR had a funding volume around 100.000 €, and the beneficiaries were Moroccan NGOs, though some of them not fully independent from the government. EIDHR micro-projects in Morocco 2005-2007 focused on participation/citizenship, good governance, human rights culture, reconciliation, rights of women, children and handicapped, and media.

EIDHR Allocations to Morocco (€)

2004	2005	2006	2007
1.000.000	1.025.000	950.000	1.231.291

Allocations for Micro-Projects. Source: European Commission

The initiatives financed via the EIDHR funding scheme proved their relevance especially in the run-up to the legislative elections in September 2007, prior to which several EIDHR-funded initiatives promoted citizenship and voter participation. Crucially, the EIDHR provided support to the first domestic NGO electoral observation commission through the training of 3000 facilitators in electoral monitoring and reporting, and institutional support. The NGO commission published a well-publicised report which found wide domestic and international attention, and which denounced irregularities in the electoral process and clearly linked the low voter turnout to the need for deeper structural political reforms.⁴³ While the direct

⁴¹ Communication from the Commission: ‘A Strong European Neighbourhood Policy’, 5 December 2007, COM(2007) 774.

⁴² Formerly European Initiative for Democracy and Human Rights (EIDHR), the only explicit EU democracy promotion instrument which allows for NGO funding without prior government clearance.

channelling of funds through local NGOs makes the EIDHR a powerful tool to counter-balance the Moroccan regime's top-down reforms, the low EIDHR funding levels substantially weaken the instrument's positive potential.

MEDA / ENPI funds to Morocco have been substantially higher; however, a very low share of these funds was earmarked for governance and human rights. Moreover, with projects being channelled through government bodies, these are unlikely to contribute to a real bottom-up reform process. Total MEDA allocations compared to funds dedicated to '(governance and) human rights' developed as follows:

MEDA / ENPI Allocations to Morocco, 2002-2010 (€)

	2002-2004	2005-2006	2007-2010
Total	426m	275m	654m
Governance and Human Rights	n.a.	5m	28m
Percentage	n.a.	2 %	4,28 %

Source: *National Indicative Programmes for Morocco 2002-2004, 2005-2006, 2007-2010*

In 2005-06, projects were aimed at the support of the national action plan on human rights (2m€), and support of the reparations to victims of human rights violations forming part of the national reconciliation process (3m€). In both cases, beneficiaries were partly government-controlled NGOs (CCDH and CDIFDH). For the period 2007-2010, total ENPI (replacing MEDA as of 1 January 2007) allocations of 654m€ made Morocco the biggest receiver of EU funds in the region. The 28m€ earmarked for 'governance and human rights' will be used as support for the ministry of justice (20m€), for support to the implementation of the IER recommendations with a focus on the creation of public archives (8m€).

In addition to community programmes, member states have also been pursuing efforts to promote democracy, governance or human rights in Morocco.⁴⁴ While the Commission and France alone provided about two-thirds of total Moroccan Official Development Assistance (ODA), followed at some distance by Spain and Germany, the share of funds used to promote democracy and human rights has been strikingly low, especially in the case of France, which provides one-third of Moroccan ODA but dedicates hardly any of it to governance

⁴³ Collectif Associatif pour l'Observation des Elections: 'Rapport préliminaire d'observation des elections du 7 Septembre 2007', http://www.forumalternatives.org/IMG/pdf_Rapp._preliminaire-confpresse_FR-10-09-07-3.pdf

⁴⁴ European donors run a range of different aid categories and budget lines under which democracy is being promoted more or less explicitly, which makes a direct comparison of quantitative democracy assistance difficult. In some cases, democracy, human rights, gender and other broad issues are established as cross-cutting or transversal funding themes, and/or do not have a proper budget line, thus making it difficult to extract the exact amount a donor has been spent in this area.

projects. Generally, bilateral funding from member states dedicated to specific democracy programmes was negligible, and most did not even undertake any explicitly democracy-related activities in Morocco (often reflecting a low level of bilateral engagement with Morocco and the MENA region in general).⁴⁵ The Southern EU member states with the traditionally closest political and economical linkages to Morocco were also the most reluctant to engage in active democracy promotion bilaterally, thus largely leaving the promotion of democracy to the Commission.⁴⁶

France is Morocco's largest trading partner and biggest aid donor, and Morocco is France's largest ODA recipient.⁴⁷ Not surprisingly, King Mohammed VI's first visit abroad after succeeding to the throne in 2000 led him to Paris. Total French bilateral ODA to Morocco during the last decade remained relatively stable at an average level of 188m€ per annum since 1999 (159m€ in 2005). However, hardly any of this has been specifically dedicated to democracy. Reflecting France's low priority on political aid in general (1 per cent of total French ODA),⁴⁸ in the sectoral breakdown of French ODA to Morocco, 'governance' was not an aid category in its own right but included in the category 'transversal sectors'. French ODA has focused on development of the productive sector (31%), education (25%), infrastructure (24%), water management (7%), while 'transversal sectors' (including governance) accounted for 13%. This included, apart from governance, cultural diversity, the promotion of French language and culture, co-development, and 'triangular cooperation'.⁴⁹ The few activities undertaken under the heading of 'governance' were not necessarily aimed at promoting democracy, including programmes on modernisation of public administration, decentralisation, and modernisation of justice, but also at land management and domestic security.⁵⁰ A detailed breakdown of French funding for governance projects in Morocco was not available.

Spain's traditionally close relationship with Morocco became (after a rather frosty period under the Aznar government) decidedly friendly again under Zapatero. Spanish bilateral ODA to Morocco increased from around 30m€ in 2003 to 70m€ in 2006, and total spending on the Development Assistance Committee (DAC) defined sector of 'Government and Civil Society' almost tripled from 2005 to 2006 (to 6.5m€). Under its own, narrower sectoral aid

⁴⁵ EU member states' aid activities in Morocco focus on : Germany – sustainable development; environment and natural resources; water; Austria – agriculture; environment; Belgium – water; vocational training; agriculture; health; infrastructure; research; Spain – health; basic social infrastructure; training; urban rehabilitation; agriculture; tourism; France – public sector modernisation; private sector development; vocational training; social development; basic infrastructure; Italy – SMEs; job creation; infrastructure; basic social services; United Kingdom – human rights; good governance; equality of the sexes; Sweden – civil society; human rights; Finland – civil society. Source: European Commission, ENPI Strategy Paper Morocco 2007-2013.

⁴⁶ Other donors active in Morocco include the United States, Japan, the World Bank, the Islamic Development Bank, the African Development Bank, various UN agencies (Unicef, UNDP, WFP, UNFPA, FAO and WHO).

⁴⁷ Official Development Assistance (ODA) excluding debt reduction.

⁴⁸ See 'France' in R. Youngs (ed): 'Survey of European Democracy Promotion Policies 2000-2006', FRIDE, May 2006, available at www.fride.org

⁴⁹ Direction générale de la Coopération internationale et du Développement (DgCID): 'La Coopération de la France avec le Maroc. Evaluation Partenariale Maroco-Française (1995-2005)', May 2007.

⁵⁰ Ibid

category 'democratic governance, citizen participation and institutional development', however, Spain spent only 2 per cent of ODA.⁵¹ Activities under the latter heading included in 2005-2006 technical modernisation and institutional capacity building, including modernisation of the justice system (2m€ over 2005-08) decentralisation (620.000€ over 2004-2006), and money laundering (30.000€ in 2006). Some additional amounts have been spent on institutional capacity building of NGOs, especially social and women's organisations.⁵²

In summary, total EU funding to Morocco earmarked for democracy projects increased during recent years, but still remained disproportionately low compared with overall ODA levels, reflecting the weak position of the promotion of democracy in EU and especially member states' political priorities towards Morocco. Commission NGO funding via the EIDHR was useful and relevant, but also disproportionately low and decidedly underfunded, contradicting the European Parliament's November 2007 assessment that civil society support was key to the success of ENP; "regardless of the degree of willingness of partner countries' governments to cooperate".⁵³ MEDA/ENPI funds were substantially higher, but these were channelled through government bodies and programmes were aimed at modernisation rather than democratisation. Member states' bilateral commitments were negligible, and this gap was particularly striking in the cases of France and Spain, the member states most closely tied to Morocco by history, geography, development cooperation and trade.

Conclusion and policy recommendations

How 'serious' the EU is about promoting democracy in Morocco and elsewhere is above all determined by the position democracy promotion holds in the ranking of European governments' strategic priorities and interests towards the country in question. In Morocco, the mix of contrasting interests has meant that EU member states have largely left the active promotion of democracy to the Commission, and have made no secret of the fact that democracy ranks far behind a large number of other priorities in their relations with Morocco. The Commission has made a valuable effort to assist the process of liberalisation led by the Moroccan government in the framework of ENP, but systematic support to genuine democratisation remains yet to be introduced in EU policies towards Morocco.

The switch of strategy in the Southern Mediterranean in recent years, the increasing subtlety and sophistication of the strategies of the North African political elite to preserve authoritarian rule in the face of increasing pressure for democratisation, has not yet translated

⁵¹ AECl / Embajada de España en Marruecos: 'Memoria de la Cooperación Española en Marruecos 2005-2006'.

⁵² Ibid

⁵³ European Parliament: 'Strengthening the European Neighbourhood Policy', 15th November 2007 (2007/2088(INI)).

into a meaningful adaptation of EU policies. Compared to other MENA states, Morocco is no doubt a shining island of liberalism, with open, violent repression largely confined to the past. Regardless, it remains a semi-authoritarian façade democracy whose leaders are proficient in playing off both Europe's naiveté and relative lack of interest in democratisation to preserve their political and economic privileges. Aware of its strategic significance for many European interests, part of the Moroccan leadership appears successfully to nurse the country's image as the leader of democratic reform and pole of stability in the region. So far the EU has failed to exploit the additional leverage it is given through this Moroccan strategic interest. Morocco's long-standing demand for a '*statut avancé*' in its relations with the EU, which is planned to become concrete in late 2008, provides a crossroads at which the EU must carefully adapt its policies to the requirements of dealing with the increasingly subtle and complex political reality of a semi-authoritarian partner. This includes a greater sophistication of tactical considerations which requires a clearer understanding of Morocco's informal political economy and the way decisions are taken outside the formal rules and political institutions Europeans take for granted.⁵⁴

Europe will not contribute to genuine democratisation in Morocco if it does not ask for it. Close political and economic relations, Morocco's keen interest in enhanced integration, and the existing frameworks of co-operation give the EU enough leverage and occasion to press for a genuine democracy in Morocco. The ENP and Morocco's aspirations for an 'advanced status' provide a particularly favourable setting for this. Member states (and particularly France under its EU Presidency), while largely refraining from pro-actively contributing to democratisation bilaterally, can back respective EU policies while enjoying diplomatic cover; and at least refrain from bilateral moves that directly or indirectly harm Moroccan democracy interests.

If truly serious about promoting democracy and human rights in Morocco, the EU must:

I. Specify the Action Plan: The revision of Action Plans in 2008 is an opportunity to enhance the Plan's potential to contribute to democratisation in a meaningful way. For this, the Action Plan should be specified to introduce, for each objective and measure under the democracy-relevant chapters, information regarding concrete implementation steps and mechanisms, timeframes, actors, budget, and measurable criteria for the evaluation of progress. Moreover, a transparent evaluation process should be prescribed that includes fully independent civil society. Alternatively, the *statut avancé* as a new contractual framework could be designed accordingly.

⁵⁴ See also Bradford Dillman: 'The European Union and Democratization in Morocco', in Paul J. Kubicek, *The European Union and Democratization* (Routledge, 2003).

2. Use the conditionality potential of 'advanced status': Making advanced demands to an advanced partner in a new contractual framework, including a coherent set of basic systemic reforms, concrete measures, actors, deadlines, and evaluation criteria, will be essential in the EU's negotiations for an advanced status agreement with Morocco. In November 2007, the European Parliament stressed with regard to the Southern Mediterranean that "human rights clauses implementation mechanisms need to be included in the next-generation accords that will be signed between the EU and countries in the region".⁵⁵ Granting 'advanced status' to an advanced partner who demonstrates its maturity by committing to an advanced level of democratisation, defined by concrete benchmarks, could provide a strong boost for the currently tame ENP's potential as a model framework for democratisation through integration where EU membership is not an option. Reaching a strong new agreement with Morocco also gains importance against the background that this will be the first of a new generation of ENP framework agreements, which require a substantial raise of maturity, commitment and integration if ENP is to remain credible.

3. Maximise the potential of the Governance Facility: An entirely relativist EU approach to progress assessment of democratic standards in its Neighbourhood can be to the detriment of democratisation efforts in more advanced partner countries like Morocco, as the softening light of flattering regional comparison invites the regimes to stick to a minimalist approach to democratisation. A healthier balance of relative and absolute progress assessment is therefore crucial. The allocation of Governance Facility funds as a reward for relative 'advance' and blurred 'progress' also indirectly supports the 'lesser evil' notion of a purely relative view on Morocco, while neglecting domestic shortcomings to the benefit of the incumbent ruling elite. To avoid such a domestic backfiring effect of the well-intended Governance Facility,⁵⁶ and at the same time to enhance the positive signalling effect of the instrument, specific rewards should be tied to specific accomplishments. Measurable benchmarks should be developed along the list of governance indicators outlined in the Commission's document on the implementation of the Governance Facility. Moreover, a significant increase in Governance Facility funds, the involvement of non-governmental actors in the allocation decision, and full transparency regarding the allocation process, including publication of the detailed grounds of assessment, would further enhance the visibility and credibility of the award, and maximise its positive signalling effect across the region.

4. Increase NGO-channelled funds: The palace's gatekeeper function within a carefully steered top-down approach to political reform implies that in terms of external support for Moroccan democracy, intergovernmental cooperation must be paralleled by direct support

⁵⁵ European Parliament: 'Strengthening the European Neighbourhood Policy', 15 November 2007 (2007/2088(INI)).

⁵⁶ EC non-paper 'Principles for the implementation of a Governance Facility under ENP', 22 February 2008.

to civil society democratisation efforts. The total independence of both NGOs and the selection and allocation process from the government is crucial if these measures are to have an impact in terms of genuine democratisation, instead of serving as a counter-productive democratic PR vehicle for the incumbent elite. Funds for the EIDHR should therefore substantially be stepped up.

5. Enhance democratic substance in aid programmes and statements: While a partnership-based approach is surely more promising in the case of Morocco, constructiveness must not be mixed up with ambiguous stances with regard to the EU's values and objectives. The EU must enhance the depth and weight (including financial) of democratic substance in political aid programmes and official statements. Technical and efficiency programmes do little to bring about democratisation. Programmes focusing on governance must ensure that they do not support a decidedly apolitical approach of modernisation but actually contribute to genuine democracy. Public statements on Morocco may focus on praise of achievements but should also systematically mention remaining challenges, and above all refrain from flattering flawed reforms or elections.



Chapter 3

Jordan

<Ana Echagüe >

Political reform in Jordan, initiated with much fanfare in 1989, has not lived up to expectations. In fact, the last five years have seen significant reversals. Nevertheless, international actors, who in theory have a significant amount of leverage in the country, given its dependence on foreign aid, are unlikely to push for any significant reforms which might cause instability in a country viewed as an important ally against terrorism and a key player in the Israeli-Palestinian conflict.

The EU's record in promoting human rights through its foreign policy is mixed and marred by inconsistencies, contradictions and questionable motives. The EU generally outlines broad policies and proclaims good intentions which lack means of enforcement. Its approach tends to focus, on the one hand, on socialising elites through political dialogue and institutionalising relations, and on the other, on a 'bottom up' approach of support for civil society as an agent of change. Most aid is directed towards NGOs dedicated to human rights training and to providing social services and combating poverty. Funding provided through the European Instrument for Democracy and Human Rights (EIDHR) has tended to focus on empowering women, on fighting social exclusion or discrimination against minorities, and on supporting campaigns against the use of torture or the death penalty. Efforts to tie this 'bottom up' approach to the more 'politically-led' aspects of EU human rights and democracy promotion have not materialised, perhaps reflecting fears that political change and democratisation can, in the short term, create instability and have uncertain consequences. EU governments have thus not shown any willingness to move beyond tackling specific human rights abuses to discussing political reform as a whole.¹

In the case of Jordan, the partnership building approach seems not to have succeeded in 'socialising' Jordanian counterparts through persuasion; rather it is characterised by indulgence or, some would say, connivance with a non-democratic regime.² The deference shown to the

¹Rosa Balfour and Antonio Missiroli, 'Reassessing the European Neighbourhood Policy', EPC Issue Paper No. 54, June 2007, pp. 8-11.

²*Ibid.*, p12.

regime has limited any potential success in the area of political reform with the most positive achievement being the establishment of a political dialogue and a sub-committee on democracy and human rights.

The state of democracy and human rights

Although Jordan is far from being a democracy, in terms of civil and political liberties, at least formally, it fares much better than most Arab states. Political parties are legal, parliamentary elections are held more or less regularly and the reform process started in 1989 did bring about positive changes if not fully-fledged democracy.

While the 1952 constitution declares Jordan a constitutional monarchy, the king retains such a monopoly on power in the country that the concept of a separation of powers is rendered largely meaningless. Officials can be heard referring to the “government as directed by his majesty” and often use the terms state, government and king interchangeably. Institutions outside constitutional structures, which report directly to the king, namely the royal court and the intelligence services, exercise substantial power. Their mandate and structure remain obscure and they are not constrained by parliamentary oversight.³ Institutions outside the monarchy, such as the cabinet and parliament, are left with limited powers, and the government at best executes what is decided elsewhere. Governments serve at the king’s pleasure, with parliament having little to say on their formation and dismissal. Parliament has repeatedly been suspended and elections postponed.

As a result of the electoral system parliament has a majority of independent members, unaffiliated to any political parties, who represent a range of tribal interests and who provide weak scrutiny of the executive. The powers of the lower house of parliament are constrained by an appointed upper house. The executive often legislates by issuing temporary legislation and decrees that function with the force of law without parliamentary approval.⁴

The executive role in the promotion, punishment or sanction of judges is an expression of the lack of independence of the judiciary, as are State Security Courts which remain outside the competence of the judicial council. Although the constitution recognises the basic freedoms of expression and assembly, press and penal laws prohibit criticism of the royal family and the armed forces or any statement considered harmful to national unity or Jordan’s foreign relations. Polls show that 74.6 percent of Jordanians fear punishment or retribution

³ Democracy Reporting International and Al Urdun Al Jadid Research Center, ‘Assessment of the Electoral Framework, Final Report The Hashemite Kingdom of Jordan’, January 2007, p. 5-6.

⁴ Ibid, p.1.

⁵ Public opinion Poll Unit, Center for Strategic Studies, University of Jordan, ‘Democracy in Jordan 2006’, July 2006

by the authorities for criticising the government.⁵ The right of assembly is restricted through the requirement of prior consent for all public meeting. The regime also interferes with the activities of non-state actors (professional associations, NGOs, not-for-profit companies) which are not allowed to be involved in 'political' issues.

The regime has struggled to maintain national unity and security while addressing a series of challenges, such as the demographic changes caused by the surge in the population of Jordanians of Palestinian origin, the rise in support for political Islam and the threat of terrorism. The distribution of the rents from foreign aid as well as government jobs and other privileges allow the regime to maintain a more or less stable base of support from the Transjordanian population concentrated in the rural areas and from a loyal security establishment. The monarchy has consolidated its rule by shifting the electoral balance from growing urban population centres to rural areas. Any threats to the precarious balance of power have historically been dealt with by repression of the opposition and challenges to the system are addressed by weakening institutionalised opposition.⁶

The most significant challenge to Hashemite authority has been the Arab-Israeli conflict which has had a significant effect on Jordan's domestic balance of power. Palestinian refugees remain a major undercurrent to all political issues and national debates. The exact composition of the population is a sensitive and contested issue with figures for Palestinian Jordanians somewhere between 40 and 60 per cent. The integration of Palestinian refugees as Jordanian citizens has generally been successful although they continue to be under-represented in the public sector and in the political establishment. The electoral law and the distribution of parliamentary seats among electoral districts are designed to under-represent urban areas that are bastions of Palestinian or Islamist support and over represent rural segments of the population allied with the regime.⁷

In 1989 Jordan initiated a political reform process which won much praise from the United States and the European Union. The process began with the holding of parliamentary elections, which had been postponed since 1967. A National Charter ultimately saw the expansion of political freedoms and the space for civil society in exchange for recognition of the legitimacy of the Hashemite monarchy. As a result of the charter, martial law was lifted, political parties were legalised, political exiles were permitted to return and restrictions on demonstrations were relaxed.⁸

However King Hussein started undermining the reforms as soon as he saw an opportunity

⁶ Julia Choucair, 'Illusive Reform: Jordan's Stubborn Stability', Washington: Carnegie Endowment for International Peace, Democracy and Rule of Law Project, Middle East Series, Number 76, December 2006, pp. 3-5.

⁷ Democracy Reporting International, op. cit, p.4.

⁸ Choucair, op. cit, p.7.

to regain the external support he had lost through his refusal to sign a peace treaty with Israel in 1980. In order to quash internal opposition a series of measures were put in place to diminish its voice and influence. Most important among them, and one of the most contentious issues to this day, was the amendment to the electoral law. The 1993 amendment restricted each voter to choosing only one candidate, regardless of the number of seats to be filled in the district. The controversial "one-person, one-vote" law, favoured tribal candidates to the detriment of parties and as a result, the 1993 elections saw a decrease in the presence of the Islamic Action Front (IAF) in parliament. In November 1994, the peace treaty with Israel was ratified, despite strong popular opposition. By the time of Hussein's death in February 1999, it seemed clear that liberalisation had been a temporary means of reducing opposition to unpopular economic policies. Political reform had been initiated, not as an end in itself but rather as a strategy for regime survival under the pressures of economic discontent derived from the International Monetary Fund (IMF) required restructuring of external debt.⁹ The reform process was characterised by its hesitant top-down nature and by its aim of maintaining domestic stability and expanding the monarchy's support base rather than achieving genuine structural reforms.¹⁰

Since then, repeated commitments by King Abdullah and his government to democratic reforms have not been implemented. The deteriorating regional situation and continuing economic woes have pushed King Abdullah to clamp down on political and civil liberties and rely on the pervasive role of the security services. The situation can best be characterised as one of highly regulated freedoms within specific 'red lines' with close monitoring and regulation increasing notably in the past five years. In 1999 King Abdullah's accession to the throne intensified expectations for political reform. Nevertheless economic reform quickly took precedence, with a focus on attracting foreign investment and increasing exports. The king prioritised administrative reform and the fight against corruption in the public sector. Increasing regional pressures related to Palestine and Iraq placed security concerns at the forefront and brought about restrictions on political activity. The regime, concerned with public opposition to its stance both towards Iraq and Palestine, delayed parliamentary elections, originally scheduled for 2001. While parliament was suspended (between June 2001 and June 2003), King Abdullah issued 211 provisional laws and amendments, many of which constituted a reversal in civil and political liberties.¹¹ Amendments to the penal code in October 2001 impose penalties and prison sentences for publishing "false or libellous information that can undermine national unity or the country's reputation." Restrictive draft laws on NGOs and public assembly were put forth by the government in June 2008 and having passed both houses of parliament are now awaiting King Abdullah's signature.¹²

⁹ Laurie Brand, "In the Beginning was the State: The Quest for Civil Society in Jordan", *Civil Society in the Middle East*, ed. Augustus Richard Norton (Boston: Brill, 1996).

¹⁰ Choucair, *op. cit.*, p. 3.

¹¹ Choucair, *op. cit.*, p. 8-9.

¹² The updating of the 1966 law governing NGOs has been an ongoing and contentious issue. The government introduced these two new laws at an extraordinary session of parliament after the PM had withdrawn an earlier draft of the NGO law form parliamentary consideration. See <http://hrw.org/english/docs/2008/08/11/jordan19588.htm> for more information.

These clampdowns on the ground are contemporaneous with successive reform initiatives. In 2002 the “Jordan First” initiative was launched. In 2003 the Ministry of Political Development was created to increase political participation and advance democratic dialogue. In 2005 the National Agenda was conceived and in 2006 the “We are all Jordan” action plan was launched. These various reform initiatives have failed to be implemented. Demands for structural reform, namely on the electoral law, remain unheeded. Some insist that the palace and government are genuine in their enthusiasm and commitment towards these initiatives but that they are all eventually aborted because of the regional situation or the lack of support from the conservatives. Status quo forces are an obstacle as they feel their privileges and position will be threatened and the king is reticent to undermine his most loyal base of support. Since King Abdullah’s accession there have been six different governments. The instability of the governments and their dependence on the king also renders it impossible for them to meet any demands for reform. Further complicating matters is the rise of Islamist political movements in the region, especially the success of Hamas in the 2006 Palestinian elections, which has increased concerns that any opening-up of the political space may strengthen the IAF’s popular support. The relationship between the government and the Muslim Brotherhood is complex and has recently shifted from one of mutual support to a more confrontational stance.

Intervening factors and contrasting interests

Jordan is seen as a key player in a volatile region and compared to its neighbours, Iraq and Palestine, it is considered an oasis of stability. It plays an intermediary role between Palestinians and Israelis, as well as being a key ally in the fight against extremism and acting as host to thousands of Palestinian and Iraqi refugees. The regime banks on its key geographic position and its role in the maintenance of regional security to secure the foreign aid it needs to make up for its lack of resources and to help maintain domestic stability. It also projects an image of precarious stability in the face of the threat of chaos and Islamism to stem any push for political reform (domestic or external). Regional conflicts have thus played an important role in providing Jordan with respite from any pressure for reform. External resources by cushioning pressure have made possible delays in political and economic reform. The regime has been able to delay implementing any economic reforms which might require changes to the social contract and political reform with the excuse that reform under such circumstances could generate political instability. Heightened security and political concerns have also led to tougher state responses and encouraged the maintenance of patronage networks.¹³

¹³ Sufyan Alissa, ‘Rethinking Economic Reform in Jordan: Confronting Socioeconomic Realities’, Washington: Carnegie Endowment for International Peace, Carnegie Middle East Center, Carnegie Papers, Number 4, July 2007, p.17.

Member states generally admit to a change of perspective since the 2005 bombings in Amman. Jordan is an ally in the fight against extremism and following the terrorist attacks has been at the forefront of Arab countries fighting extremism. Together with the situation in Iraq, the terrorist bombings brought the issue of security to the top of the agenda, not only for Jordan but also for all the external actors operating in the country. Consequently, although reform may not be moving as quickly as wished for, this is attributed to the change in geostrategic circumstances. Furthermore, both the US and the EU shifted their priorities after the Egyptian and Palestinian elections, backing off from any push for reform for fear of Islamist movements, a move that has led to the regime resorting to the use of the 'spectre' of Hamas.

The Arab–Israeli conflict has been one of the main external factors influencing economic and political reform in Jordan. More than half of the Jordanian population is of Palestinian origin, and this identity issue has again been used as an excuse to avoid engaging in political reform. International actors see the Jordanian regime as a useful intermediary between Israelis and Palestinians and are supportive of a monarchy that has been willing to sign a peace treaty with Israel in spite of overwhelming domestic opposition. The IAF, which supports the Palestinian cause and opposes the peace treaty and the normalisation of relations with Israel, would probably gain most from any political opening. Furthermore, some IAF leaders are closely identified with Hamas. Thus any liberalisation of the system which would lead to a more prominent role for the IAF could be problematic in terms of the regional dimension for the external actors.

The US-led occupation of Iraq in 2003 has also had significant effects and implications for external actors. While the Jordanian government quietly cooperated with the occupation, the IAF was vocal in its opposition, maintaining that the insurgency represented legitimate resistance similar to the Palestinian resistance to Israeli occupation.¹⁴ Again, the international community is unlikely to press for any measures that would jeopardise the regime's support on this front. The inflow of Iraqis to Jordan has been increasing, with the number of Iraqis in Jordan estimated to be between 700,000 and one million. For Jordan, the halt in subsidised Iraqi oil flows has significantly raised the energy bill, but the rise in oil prices has been accompanied by larger remittances from abroad and substantial inflows of foreign aid, particularly from the United States, as well as increased foreign investment.¹⁵ In the context of Jordan's role in the efforts to deal with the regional conflicts, EU–Jordan cooperation as a whole has taken on a "contribution to peace" dimension. EU emergency budget support was granted to cope with the negative impact of the Iraq war, with conflict prevention as the

¹⁴ Nathan J. Brown, 'Jordan and Its Islamic Movement: The Limits of Inclusion?', Washington: Carnegie Endowment for International Peace, Democracy and Rule of Law Project, Middle East Series, Number 74, November 2006, pp. 8–9

¹⁵ Alissa, *op. cit.* p. 16.

main priority; all activities in the area of cultural dialogue became exercises in conflict prevention, at the expense of any concern with emphasis on democratic reform.¹⁶

International actors have largely bought the security argument of the 'Islamist threat' feared by the regime. This can be detected in official EU statements:

"At regional level, Jordan is an important stabilising and modernising influence. Its active role in promoting political reform and its constructive and balanced attitude to the Israeli-Palestinian conflict, makes the country a very valuable partner in the Middle East peace process and in the economic and political modernisation of the Middle East. Jordan's capacity to remain proactive in the field of political development is a rare asset among the countries in the region."¹⁷

"...located between two major conflict zones, Jordan's path towards democracy and greater respect for human rights is not an easy one. Attempts to destabilise the Kingdom through terrorist attack illustrate Jordan's vulnerability in this field."¹⁸

EU officials openly admit that it is not the time to push for political reform. There are certain issues that are seen as red lines and which neither the EU nor the US are willing to put on the table. For the US, for example, the electoral law is one of the "don't touch" issues with another red line being the public gatherings law. The regime has only to allude to its national security for the EU to back off. The truth, as conceded by a senior European diplomat, is that Jordan is a security state, although a less extreme, less openly repressive, version of those in Tunisia or Egypt.¹⁹

New democracy and human rights policies

The EU's commitment to policies of promotion of democracy, human rights and good governance in Jordan is expressed in:

1. The democracy and human rights clause (sometimes known as the "essential elements" clause) included in the EC's agreement with Jordan.²⁰

¹⁶ Evaluation of the European Commission's Support to the Hashemite Kingdom of Jordan. Draft final report, Volume I - Overall assessment, June 2007. Evaluation of the European Commission

¹⁷ European Neighbourhood and Partnership Instrument, Jordan, Strategy Paper 2007-2013.

¹⁸ ENPI Strategy Paper for 2007-2013

¹⁹ Interview in Amman on April 17, 2007.

²⁰ Since 1995 this clause has been systematically included in EC agreements with third countries including trade and cooperation agreements. Human rights issues are singled out with particular reference to international standards, and have achieved a high profile, being addressed in political dialogues with most partner countries. These issues are pursued strongly in a multilateral context, especially in the UN, and with direct support, primarily through the EIDHR, for the OHCHR and other such bodies including international tribunals.

2. Democracy promotion instruments built into the European Neighbourhood Policy (ENP) with an Action Plan that at least in theory includes agreed reform targets and a strong element of conditionality. In the Mediterranean, the ENP reinforces the Barcelona Process which had been established in 1995 to re-launch EU-Mediterranean cooperation. This had already involved commitments by participating countries to develop the rule of law and democracy in their political systems.

3. Distribution of grants through the European Instrument for Democracy and Human Rights (EIDHR), which in 2008 will be funding 10-12 NGOs. Initially, Jordan was not identified as a priority country under the EIDHR and so could only benefit from this instrument for regional operations. The EIDHR allows funds to be channelled directly to civil society and non-governmental actors, regardless of the attitude of the government; although in Jordan the government still tries to control how the funds are disbursed. The EU avoids funding political parties or opposition groups.

The Euro-Mediterranean Association Agreement with Jordan was signed in 1997, as part of the Barcelona Process, and entered into force in 2002. Its main objective was trade liberalisation, with the specific aim of creating a free trade area between the EU and Jordan. The agreement provided for a political dialogue to be established in the framework of an EU-Jordan Association Council. An Association Committee was also established subordinated to the Council and operating at a technical level. Article 2 of the Association Agreement states that:

“Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect of democratic principles and fundamental human rights as set out in the universal declaration on human rights, which guides their internal and international policy and constitutes an essential element of this Agreement.”

In 2002, a Country Strategy Paper was presented. Again trade liberalisation was the main priority although “strengthening pluralism, human rights, civil society and rule of law” were also among the five listed priorities. The weakness of the strategy, as has subsequently been the case with the Action Plan, rests in the chain of assumptions which link certain forms of support to specific objectives. The CSP refers to the aim of “developing a pluralistic democratic society based on respect for human rights and the rule of law” and the associated indicative programmes allocate funds for “strengthening pluralism and human rights” but the concept of pluralism remains only vaguely defined, with the focus in practice mainly on civil society and the media.

In terms of good governance, the EU's all embracing definition makes it poorly operational such that it is hard to find instances of mainstreaming of governance in EU policy documents.

The EU does seem to have successfully targeted the new objective of “human rights” included for the first time in the 2002 CSP in its dialogue with the government. Jordan accepted the creation of a sub-committee on human rights to engage in a structured dialogue with the EU on progress achieved in this area, the first mechanism of this kind in the MEDA (European-Mediterranean Partnership) region. Additionally, dialogue with the government seems to have been effective as reflected in the recent acceleration in the pace of ratifying and enforcing international treaties protecting pluralism and human rights, including the International Covenant on Civil and Political Rights in June in 2006.²¹

Jordan was among the first group of countries to adopt a European Neighbourhood Policy (ENP) Action Plan in 2005. The Action Plan, negotiated between the Commission and the government, outlines reform priorities for the short and medium term. Among the priorities for the new European Neighbourhood Policy Instrument (ENPI) Strategy Paper for 2007-2013 is political reform and good governance.

The fact that it is jointly negotiated with the government is supposed to strengthen the ENP’s ‘partnership’ dimension and the country’s ‘ownership’ of the reform process. It is a five year plan which reflects Jordan’s own reform plans, the National Agenda and ‘We are all Jordan’. The aims set out are vaguely articulated, indicating areas for action such as the development of civil society without specifying measures to achieve these goals.²² For example the first action is to “Promote the stability and effectiveness of institutions strengthening democracy and the rule of law” and is to be achieved by supporting ongoing efforts to improve good governance and transparency, and by promoting national dialogue on democracy. A second action refers to the enhancement of the independence and impartiality of the judiciary yet goes on to list as means to achieve this measures that bear no relation to enhancing judiciary independence, namely the implementation of a government strategy to simplify procedures and improve efficiency and the training of judges to improve capacity and efficiency. Most importantly, the issues which the Action Plan focuses on are not necessarily those which are most problematic in relation to human rights and democracy in Jordan. A result of the ownership and negotiating process is that the Action Plan tends to be less demanding in its identification of democracy and human rights priorities than the Country Strategy Papers.²³

The ENP first year progress report listed as achievements the regular political dialogue held in the Association Council and Association Committee and the establishment of a sub-committee on human rights and democracy: “The mere fact that a dialogue on such issues can now take place within an institutional framework is a progress brought about by the

²¹ Evaluation of the European Commission’s Support to the Hashemite Kingdom of Jordan, Draft final report, Volume 1-Overall assessment, June 2007. Evaluation of the European Commission.

²² Balfour; op. cit. p.16-18.

²³ Balfour; op. cit. p.18.

ENP". It also made reference to progress in governance as reflected in the ratification of the UN convention against corruption, the definition of an anti-corruption strategy and decentralisation plan, the strengthening of the Audit Bureau and the draft of a financial disclosure law. In addition the report admitted that although reform of the election law had been discussed no progress had been made.²⁴ A fact echoed in the subsequent progress report which noted that, "Jordan has shown a strong commitment to a wide range of social and economic reforms and to a lesser extent to political reform." Progress highlighted in the report for 2007 was the adoption of the law on municipalities, the amendment of the press and publication law, the anti-money laundering law and the law establishing an anti-corruption commission (although the report later admits the anti-corruption commission is not operational and lacks the resources to become functional). While the first progress report noted that the judicial upgrading strategy was said to be on track with the capacity and efficiency of the justice administration enhanced through the training of judges the subsequent progress report stated that "none of the core issues hindering the independence of the judiciary – such as its total and administrative dependence on the Ministry of Justice – have been addressed".²⁵

In general even EU Commission representatives admit that the Action Plan has been poorly conceived and remains more of a political document, a gesture for show, than an actual plan. It is far different from the action plans for Eastern Europe which were very specific in terms of tasks, budgets and timelines. Civil society organisations have complained of not being consulted during its drafting. They highlight the lack of a system to measure impact or specific verification indicators to measure results, as well as the lack of progress indicators and assignment of responsibility for implementation. Overall they feel it merely adopts the official, government storyline. Shifts in regime strategy are generally taken up as new priorities on the EU's side. In this context the new priorities highlighted by the king for 2006, poverty alleviation and job creation, have quickly been taken up by the EU leaving behind the previous year's focus on public sector reform which the government decided to put on hold.

Conditionality

A recent report adopted by the European Parliament states that "conditionality can constitute an appropriate incentive for acceleration of reform processes in the ENP countries towards their convergence with the EU if conceived positively, and differentiated according to the

²⁴ Commission Staff Working Document accompanying the: Communication from the Commission to the Council and the European Parliament on Strengthening the European Neighbourhood Policy. ENP Progress Report Jordan. Brussels, 4 December 2006.

²⁵ Commission Staff Working Document accompanying the: Communication from the Commission to the Council and the European Parliament, 'Implementation of the European Neighbourhood Policy in 2007. Progress Report Jordan. Brussels, 3 April 2008.

country's specific needs and capacities." The problem seems to be that the action plans do not specify how countries will be rewarded if they do reform or will be punished if they do not. This is apparently due to the reduction in incentives and the de facto abandonment of the benchmarking method initially proposed by the Commission. The ENP was devised as a policy based on rewards and positive conditionality in relation to promoting human rights and democracy, reflecting the EU's view that exporting democracy does not work and that the Commission does not have the means to apply negative conditionality. But although the Action Plan highlights priority areas for reform it does not specify the reward attached.²⁶ In terms of EU member states' bilateral relations the use of conditionality is in no case considered.

Despite Jordan being one of the most assisted countries in the world, and therefore a prime candidate for the use of conditionality it seems that conditionality, certainly negative conditionality is not on the cards. The use of conditionality is minimal and certainly not applied regarding issues of political reform, democratisation or human rights. Geostrategic factors play a role in this and some analysts even claim that democracy is really not in the interest of external actors, when what they prize is stability and a loyal ally.

Jordan is among the countries that receive most foreign aid in the world. Its main donors are the US and the EU.²⁷ Aid to Jordan averaged \$495 million annually over the 1991–2000 period. US assistance amounted to \$810 million over 1991–2000, 82 percent of which came after 1997.²⁸ US aid levels started to increase after 1994, when the peace treaty with Israel was finally ratified despite strong opposition (in 1980, the United States had ended its economic package to Jordan after King Hussein refused to sign a peace treaty). After 1994 the United States also declared Jordan a major non-NATO strategic ally and wrote off its debt. In less than a decade, Jordan became the fourth largest recipient of US economic and military assistance.²⁹ Following the United States' invasion of Iraq, US aid increased by more than 200 percent, from \$150 million in 2001 to \$348 million in 2004. In 2003, US aid amounted to \$948 million (74 percent of which was emergency supplemental assistance). More than half of US assistance takes the form of cash transfers to support the public budget which are matched by an equal amount of government spending on agreed development programmes.³⁰ In September 2008 the US and Jordan signed an MOU which provides for increased levels of assistance to Jordan. The MOU outlines support, over five years, of \$360 million per year in Economic Support Funds and \$300 million per year in Foreign Military Financing. Jordan was also one of the first countries in the region to sign a partnership agreement with the European Union in 1997. Jordan is the largest recipient of EC support per inhabitant in the Mediterranean region. Yet

²⁶ Balfour, op. cit. p.21.

²⁷ Evaluation of the European Commission's Support to the Hashemite Kingdom of Jordan. Draft final report, Volume I – Overall assessment, June 2007. Evaluation of the European Commission.

²⁸ Alissa, op. cit. p.8.

²⁹ Choucair, op. cit. p.17.

³⁰ Alissa, op. cit. p.7.

the EU claims to have not much leverage in the country despite the fact that it gives around €70 million per year (which is deemed to not be very much compared with what the US gives and with the \$1 billion Saudi Arabia gives). In fact the king in 2007 reportedly asked the EU for help with the Council of Paris in terms of debt reduction and an injection of cash to make up for a shortfall in funds to pay the public sector pay roll. Reportedly the EU was willing to comply, by redirecting funds from elsewhere, in order to help the government with public sector payments and avert any instability resulting from the shortfall.

As an official from the Ministry of Planning explained, some form of conditionality is included in non-political cooperation but this can never be the case in terms of political reform as this is a home grown activity. In terms of non-political cooperation there is direct budget support agreed with the EU Commission which is paid to the treasury. It takes the form of a reform facility for specified sectors which sometimes includes some form of conditionality. Once reform is passed a tranche is disbursed. Political reform is different; it is not linked to assistance from any country. There is no conditionality on these issues.

There are clear instances of democratic backtracking which have not elicited any reaction by the EU; for example, in the areas of freedom of association and assembly and in the constraints on civil liberties included in the new anti-terrorism law. The EU offered to support civil society and the media in the run up to the 2007 elections but all the government was willing to allow was for help in campaigns to encourage voter participation. Any talk of actual electoral reform is off limits. At most the EU will raise an issue during the political dialogues or with the king, as was the case with the draft law on civil society put forward by the Ministry of Social Development only to quietly accept the claim that it is in line with best practices. The government can further gain strength from the fact that in many issues they can count on the backing of the Americans and British who give priority to security considerations.

Some of the reformers within the country are quick to call for more conditionality. They feel that conditionality from the EU and US would be the best way to move forward. Budgetary support only increases mismanagement. Some cite the municipalities' law passed in 2007 as an instance where conditionality, through the Millennium Challenge Corporation (MCC), was successful.³¹

Engagement and socialisation

The EU's receptiveness to government priorities has already been mentioned above. While the EU generally incorporates major shifts in the government's strategy it is also sometimes

³¹ Jordan is a threshold country of the MCC which means it qualifies for about \$23.5 million (\$16.5 of which goes to local governance i.e. municipalities). It has now achieved compact status which means that they have a year to produce a plan and if during that year they improve their indicators they can get up to \$500 million. Its indicators for political participation were low which is what could have led to the establishment of a women's quota for municipal elections.

able to bring new issues to the government's agenda through systematic dialogue and technical assistance. In the instances where dialogue has been ineffective, the EU has sometimes circumvented the problem by supporting civil society organisations, for instance in the area of women's rights. Engagement at the government level is mainly channelled through requests for specific project funding projects (mainly for large infrastructure projects), requests for budget support and joint policy development. Policy dialogue aims to assist in the building of institutional capacity, in the development of policy reforms, and eventually in the implementation of these reforms through a sector budget support programme. So far it has been used to significant success in direct support to small and medium enterprises (SMEs) and management of water resources. The success of EU support in these two instances suggests that the EU is good at this type of intervention and that perhaps it could be a model for engagement on democracy and human rights issues. Policy dialogue has sometimes been ineffective, with the EU and the government "agreeing to disagree", for example in the area of women's rights, regarding which the EU has often raised sensitive issues like honour crimes. The lack of progress on this front led the EU to approach the issue instead through the Sharaka project funding which has achieved significant input on the issue of women's rights. What makes this approach successful is the EU's transparency in its policy dialogue, its relatively neutral political profile, and its capacity to engage significant financial resources in sector budget support programmes.³²

Engagement and dialogue on human rights and democratic reform takes place mainly at the EU level, within the sub-committees on human rights and democracy, more so in terms of human rights than democratic reform. Individual member states prefer to let the EU raise these issues. In this sense the ENP has at least institutionalised dialogue with the government on this front, even though the results are questionable. Indirect approaches to democratic reform continue to be the favoured mode of operation but it is doubtful whether these can have any positive effects on political liberalisation barring an overhaul in the balance of power.

The ENP does not seem to have entailed a dramatic shift in terms of dialogue and engagement with Jordan. What it has done, from the perspective of the Ministry of Planning, is favour a more bilateral approach over the previous regional approach. However, there seems to be a disconnect between calls for proposals which are managed on the regional or European levels and the priorities of the EU in the country. The regional MEDA programme and the EU strategy in Jordan are reconciled through the overarching objective of shared peace and prosperity. However, there seems to be little mutual support.³³

³² Evaluation of the European Commission's Support to the Hashemite Kingdom of Jordan, Draft final report, Volume 1-Overall assessment, June 2007. Evaluation of the European Commission.

³³ Ibid.

Jordan implements its relationship with the EU through the Ministry of Planning, which deals with economic affairs issues, trade, services liberalisation and the 2014 FTA and the Ministry of Foreign Affairs which deals with security, human rights, political reform and general political cooperation. In the assessment of the Ministry of Planning trade and financial cooperation are progressing faster than security and political cooperation because the latter are newer components. The government is quick to highlight that Jordan was the first country to establish a subcommittee on democracy and human rights to discuss these issues on a bilateral basis with the EU. From their perspective, they have “nothing to hide” and want to learn best practices on how to enhance democracy and human rights. They believe they have gone the extra mile by approving bilateral projects with bilateral financing (as opposed to regional projects in other countries) on anti- terrorism, penitentiary reform and support for the National Centre for Human Rights (NCHR).

Bilateral cooperation with the EU takes place through daily informal contact and through the association subcommittees, the Association Committee and the Association Council. There are ten association subcommittees which include thematic, operational and technical level experts. They are all led by the Ministry of Planning. When held in Brussels there is observation by the member states. When held in Jordan the EU encourages the ministry to invite NGOs. They all report to the Association Committee which is chaired by the secretary of the Ministry of Planning. Within this committee talks are held at a semi-political level. It discusses the conclusions of the subcommittees and takes decisions as well as giving assignments to the subcommittees. The Association Council is the highest forum, at which policy is discussed. It is chaired by the Jordanian Minister of Foreign Affairs and by the Minister of Foreign Affairs of the EU presidency. Human rights and democracy issues are specifically touched upon in the subcommittee on human rights and democracy which covers regional and bilateral projects whose beneficiaries include the media, NCHR, judges and the penitentiary. Civil society organisations complain that only state actors are invited to attend the sub-committee on human rights, and that NGOs cannot participate.³⁴ There is a very limited awareness of the ENP and action plan among public, government bodies and civil society organisations.

Engagement with non-regime actors is hampered by the government. Scrutiny of NGOs intensified in the run up to the 2007 parliamentary elections and was accompanied by pressure on donors not to finance NGOs without prior executive authorisation. Fourteen international NGOs were being investigated at the time of writing and three were closed for administrative reasons (because their activities were not in accordance with their charter).

³⁴ Speech prepared by Lina Quora, Executive Director Sisterhood is Global Institute. Hearing on Human Rights in the European Neighbourhood Policy, August 27, 2007, European Parliament-Brussels.

The government sent a letter to all donors stating that they cannot fund Jordanian organisations or foreign organisations without prior ministry consent. This seems to be the expression of a concerted effort from above, not the work of a single ministry. Nevertheless, in contrast to the EU's bilateral relationship with the government, individual member states usually work directly with civil society organisations, despite any government hurdles.

Democracy and human rights assistance

European commitments towards democracy and human rights remain limited with funds allocated to supporting democratic governance representing a small percentage, usually no more than three or four percent, of overall overseas development assistance (ODA). This trend is reflected in Jordan although there is a tendency towards increases in funds allocated towards democracy and human rights. The bulk of support, as is the case with European governance support generally, focuses on building state institutions in collaboration with the government, in an effort to maintain stability through negotiated, consensual reform. For this reason most support is direct budgetary support, much more than support for civil society. Civil society actors in recipient states have criticised the fact that assistance is so heavily weighted toward government and state institutions. Such a model favours state-led development to the detriment of political competition and a redistribution of power.³⁵

Between 1996 and 2000 the EU financed 11 bilateral operations (total €3m) and several regional operations to strengthen democratisation, human rights and the rule of law. These focussed on the rights of women, youth and children, including two operations to promote participation of women in parliamentary elections. EU-co-financed NGO projects in Jordan (€1.3 m) during the same period concentrated on capacity building of NGOs, promotion of women's rights and protection of youth.³⁶

In the 2002-2004 National Indicative Programme (NIP) the Sharaka programme provided support for non-governmental organisations. It was the first ever project launched between the EU and a partner country in the Mediterranean region under a bilateral funding mechanism. It was designed as a decentralised, flexible grant funding for NGO activities and training support for authorities. Since 2003 the Sharaka programme has provided financial support to 13 NGOs. The complexity of the application process has led to a bias in favour of larger, mostly Amman based, organisations. Support has thus been focused on a few influential NGOs, helping them to enhance their institutional capacity and ability to contribute

³⁵ Richard Youngs, 'Fusing Security and Development: Just another Euro-platitude?', FRIDE Working Paper 43, September 2007.

³⁶ Euro-Med Partnership, Jordan, Country Strategy Paper 2002-2006.

to debates. The NGOs that received funding have been able to “conduct a study”, “launch a media campaign” or “establish branches out of Amman”. Two organisations have managed to have a voice in the policy arena: one organisation conducted a study on the status of women in 15 laws, which was subsequently reviewed by parliament. EC support also helped create a confidential hot line for family abuse and domestic violence cases. The number of reported cases jumped from 30 to 2000. EC support has led to an increase in awareness of the issue in the public arena.³⁷

The 2005-2006 NIP increased the allocation for the programme on human rights and democracy with a different approach, centred on a wider governance agenda of dialogue and collaboration between government and civil society. Its aim was to assist Jordanian efforts to build administrative and training capacities for the judiciary; to increase efficiency and modernisation in the courts system; to develop the Higher Media Council and National Centre for Human Rights; to help reform the electoral law and to enforce legislation on democracy and human rights. It included a capacity building component for government agencies involved in the promotion of human rights as well as a focus on promoting dialogue between the government and non-governmental actors.

The general perception that political reform and support for civil society and socio-economic dialogue have not benefitted from a large share of funds led to an increased allocations of funds for these issues in the NIP 2007-2010. The NIP 2007-2010 states that the EU should continue to provide support for civil society organisations with the objective of empowering civil society to be an influence on the quality of governance. The third phase of the Euro-Med Youth Programme (2006-2008) has been agreed with the Minister of Political Development targeting youth and with a focus on mobility, non-formal education, intercultural learning, sub-regional cooperation in the youth field and the development of youth associations, groups and clubs. The thematic priorities are active participation in society, gender balance and heritage and environment protection.

In addition Jordan could potentially qualify for the ‘Governance Facility’, launched at the EuroMed 10th Anniversary Summit in 2005, to be allocated as a variable ‘reform’ premium to the partner countries that have made most progress in implementing the governance priorities agreed in their action plans. Endowed under the NIP with €50 million annually, the first Governance Facility allocations were made to Morocco and Ukraine in 2007.

³⁷ Evaluation of the European Commission's Support to the Hashemite Kingdom of Jordan. Draft final report, Volume I - Overall assessment, June 2007. Evaluation of the European Commission.

National Indicative Programme	Democracy and HR (€ million)	Total	%
2002-2004	2	142	1%
2005-2006	5	110	5%
2007-2010	17	265	6%

source: Jordan National Indicative Programmes

The regional ENPI programme for EU southern neighbours is supposed to help achieve the objectives outlined in the country strategy, on the basis that activities implemented at regional or sub-regional level can complement and or provide added value to bilateral operations. On political development issues, bilateral assistance can support the implementation of political reforms, while regional activities will include support for creating regional networks and platforms for civil society organisations and media networks. In addition to the bilateral and regional budgets two new programmes will be available. The ENPI interregional programme will finance mainly the European Community programme TEMPUS and the new Scholarship Programme, as well as EU Technical Assistance and Information Exchange (TAIEX) activities. In addition, the new thematic programmes will include in particular the European Instrument for Democracy and Human Rights (EIDHR), which will support non-governmental organisations working on human rights and democracy issues.

In terms of coordination, an informal Donor and Lenders Consultation Group (DLCG) was created in 2000 as an initiative of the commission delegation and member states embassies to improve donor coordination. This mechanism attempts to coordinate between member states, as well as the United States Agency for International Development (USAID), the UN and other active donors, such as Japan. The DLCG has established six thematic groups: education, social development, private sector reform, environment, water, governance and public-sector reform. However there is no formal division of labour among actors in terms of specialising in particular sectors according to comparative advantages. This coordination mechanism complements the Aid Coordination Unit of the Ministry of Planning which has been ineffective in the past. Moreover, the Commission benefits from extensive contacts with individual donors for ad-hoc coordination.³⁸

Member states generally work through civil society organisations, instead of government to government, with major areas of cooperation being media, women empowerment (apparently the government is happy to allow work in this field) and NGO capacity building.

³⁸ Euro-Med Partnership, Jordan, Country Strategy Paper 2002-2006.

This is certainly the case for the Dutch, German and Danish if not for the French who focus more on reform of the judicial sector, and the British who now prefer to support the government in counter-radicalisation projects. Donors have highlighted recent restrictions on civil society, including their access to funds. The government recently sent a note to all donors reminding them of the requirement to notify the authorities of their funding activities. Most donors seem to have decided to ignore the requirement.

Dutch funding under the MATRA social transformation programme has tripled to Jordan since 2003. Jordan has access to a human rights and good governance facility of about €400,000 (which funds about 10 projects per year); a MATRA-KAP programme which funds smaller projects (the budget which was €70,000 for 2007 is delegated to the Embassy); a PKP public knowledge programme for cultural exchange at the ambassador's discretion; MATRA training for European cooperation; and a Flexi instrument for information exchange through short visits for government officials.

The UK's Department for International Development (DFID) programme of bilateral development assistance in Jordan was closed down in November 2005. Small scale Global Opportunities Fund money from the Foreign Office now focuses on counter-radicalisation by supporting Jordanian programmes on issues such as controlling Imams' speeches and other efforts to control extreme versions of Islam.

French bilateral aid cooperation was a modest €1m in 2007, mostly directed towards cultural activities and French language training, although it also included some judicial cooperation carried out through the Judicial Institute of Jordan (training judges and prosecutors), cooperation with the Ministry of Justice cooperation with the NCHR (financing a EuroMed HR Network seminar on judicial independence) and cooperation with the public prosecution office (to improve supervision of the police forces during arrests).

Jordan is a priority partner country for German development cooperation but most work focuses on water issues. German political foundations work on political and civil society issues. The Friedrich Ebert Foundation works with local partners on human rights issues, trade union issues, women empowerment and civil society. The Konrad Adenauer Foundation supports the work of local organisations in terms of democracy and rule of law. It has programmes on political Islam, Euro-Med dialogue (including informal parliamentary networks) and dialogue between cultures and religion. It has also created an expert advisory group on security and foreign policy. In terms of democracy and human rights, given the negative connotation that democracy promotion seems to have acquired in the region, the Konrad Adenauer Foundation has recently changed strategy with a focus on civic and political education rather than on institutions. Activities include a national forum for youth and culture, human rights training for trainers, conferences on civic Islamic discourse and a focus on constitutionalism.

Denmark launched a new policy towards the Middle East in 2003 with its “Partnership for Progress and Reform”. The Danish signed a two year Cooperation Agreement with Jordan in 2004 which they planned to extend indefinitely. Danish projects usually work through Danish NGOs and mostly on general civil society capacity building. Thematic issues include media training, women's participation, decentralisation, children's rights, gender mainstreaming, support for the family protection department of government (a government to government project but led by an NGO), establishing an ombudsman (at the initiative of the king) and prevention of torture. The regional and bilateral (Jordan, Yemen and Morocco) programmes have a combined budget of \$20 million per year, approximately \$4million of which is directed to Jordan.

Conclusions and policy recommendations

Recent years have seen serious setbacks in political and civil liberties in Jordan, justified with reference to the heightened security situation. Furthermore none of the political reform initiatives initiated by the regime has been implemented to any significant effect. The international community has remained silent, not wishing to alienate an important ally. Nevertheless in the long run the lack of freedoms together with the failure of socio-economic programmes could lead to problems and to the instability which all actors are so desperate to avert.

The link between political reform and long term stability needs to be made. Without political reform instability will only grow. The government should address the shortcomings of the electoral law, strengthen guarantees for fundamental freedoms and political rights and broaden public participation in government. A more effective role for parliament, political parties, civil society groups and independent media needs to be nurtured. If the political space does not open, the uneasy situation between the Islamic Action Front (IAF) and the government could eventually become highly destabilising. The IAF will not accept the status quo indefinitely and government pressure will only lead to a split within the movement, giving extremists free range to work underground and gain support. The later the reform the more destabilising the situation will be.

In this sense, at the very least, external actors should refrain from praising Jordan and holding it up as a shining example of democratic progress in the region. There is a need for pressure from abroad with some activists even favouring aid conditionality in an effort to push the reform process along. Others, however, warn that conditionality would be counterproductive and resisted by both the public and political elite as interference in domestic affairs. If that were the case, perhaps persuasion and inducements would be more effective.

The link between political reform and economic reform needs to be made. The government believes that socio-economic developments will take pressure off political issues but political

and governance reform issues should be understood as key components of the economic reform programme prioritised by the king. How long can the country sustain the status quo without alleviating poverty and inequality and thus averting political radicalisation? The government tries to avert problems by increasing public salaries from time to time and postponing the liberalisation of the labour market but these are hardly sustainable solutions. Deep economic reform will require parallel political reform. It is precisely the lack of progress in governance reform which is impeding full economic transformation. The current distribution of power in Jordan leads to resistance to significant reform programmes by certain political elites as they have an incentive to manipulate the system to maintain their privileges and control over certain institutions. Furthermore, the population does not have equal chances to benefit from economic opportunities emerging as a result of reform programmes. The benefits of reform usually accrue to a minority of the population while the costs are borne by all, with the burden being felt disproportionately by disadvantaged groups. Benefits are secured through rent-seeking, networking, and the way in which political support and employment in the public sector are doled out on the basis of tribal and familial affiliations rather than merit. Political reform should reduce the power of groups resisting economic reform, and empower the population to have equal access to economic opportunities, without it a successful economic reform is limited.³⁹

The regime needs to be held to account regarding compliance with International Conventions signed. The International Covenant on Civil and Political Rights (which was ratified by Jordan in 1975) and International Covenant on Economic, Social and Cultural Rights were published in the Official Gazette in June 2006 giving them the force of law. The Convention on the Rights of the Child, The International Convention on the Elimination of All Forms of Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were also published in the Official Gazette in 2006, years after having been signed and ratified. The special rapporteur on torture and other cruel, inhuman or degrading treatment recently concluded that the practice of torture persists in Jordan. Other international conventions have been signed without the requisite adapting of the local legislation. Some aspects of the labour laws in Jordan contradict the international conventions signed. The articles on the freedom to form unions contradict the international conventions signed. There are contradictions between some of the provisions in the constitution and obligations under international law pertaining to the international covenants ratified. For example, there is no guarantee that legislative power represents the will of the elected house of parliament, which contravenes one of the central tenets of international standards related to democratic governance (Article 25 of the International Covenant on

³⁹ Alissa, *op. cit.*, pp 18-20.

Civil and Political Rights). The constitution allows the executive to postpone elections for up to two years and to suspend parliament indefinitely which undermines Jordan's obligations under international law to guarantee periodic elections (Article 25 of the International Covenant for Civil and Political Rights).⁴⁰

The EU needs to strike a better balance between fostering political reform and pursuing other key objectives, such as maintaining stability, avoiding conflict and promoting security. The EU has to find a way to remain engaged while putting on pressure to implement political reforms. The 'governance' facility created to provide additional assistance to those countries which undertake political reform needs to spell out specific conditions and rewards. The Action Plan needs to specify the rewards for achieving results in the priority areas it highlights for reform. The provision of economic incentives, which is the main tool for changing government policy, must be tied to the delivery of political reforms.⁴¹ Furthermore the Action Plan needs to be tightened, with clearly articulated aims and specific tasks, budgets and timelines to achieve them. For this purpose it would be useful to include civil society organisations in the drafting process in recognition of the fact that the authorities are also targets for democratic reform, not mere partners. Monitoring and evaluating mechanisms should also be part of the plan. Civil society funding under EIDHR should be broadened in scope in an effort to reach beyond "the usual subjects" and expand geographically beyond Amman.

In general, external actors should make a greater effort to support reform and sustainable and equitable growth. Their policy should aim to push the country along a path of political and economic reform. For this purpose the Jordanian government also needs to improve the governance structures to increase the effectiveness of aid in driving growth. It is in the Jordanian interest to address socio-economic and political challenges and it is in the EU's interest that Jordan is stable, prosperous, and committed to peace in the region. There is room for improvement in governance, anti-corruption, institutional capacity and political participation.

⁴⁰ Democracy Reporting International and Al Urdun Al Jadid Research Center; 'Assessment of the Electoral Framework, Final Report The Hashemite Kingdom of Jordan', January 2007, p. 7.

⁴¹ Balfour, op. cit. pp 8-9.



Chapter 4

Lebanon

< Julia Chouair Vizoso >

Europe is deeply involved in and affected by the situation in Lebanon. From the European Union's perspective, Lebanon's security is vital for the security of the entire Mediterranean region, which is judged to be producing increasingly serious threats to the EU's own stability and strategic security. For Europe, Lebanon is not only key to the Arab-Israeli conflict but also holds great symbolic significance as a model of confessional coexistence in a region rife with sectarian tension.

For almost four years, Lebanon has been in a crisis caused by the upsetting of the political equilibrium in place since the end of the Lebanese civil war in the early 1990s. The end of Syrian direct control over Lebanese politics unleashed a political game of musical chairs in which local and regional players have struggled to ensure that they hold the upper hand in the new consensus that will govern Lebanon. As feared by Lebanese citizens and predicted by many observers, the political crisis eventually erupted in the worst internal fighting since the civil war. The outbreak of violence in the second week of May 2008 forced politicians—through Qatari-sponsored mediation—to return to dialogue to resolve the 18-month political impasse between the governing March 14th coalition and opposition March 8th parties. The Doha Agreement of 21 May and the formation of a national unity cabinet on 11 July have ended the immediate risk of further violence. However, the underlying problems that prompted the crisis remain unresolved and are likely to resurface in the lead up to the elections for parliament in the spring of 2009.

The dynamics of this most recent crisis are not new to Lebanon. Due in large part to the confessional political system, which mandates that political and institutional power be distributed among religious communities, the country's modern history has been characterised by waves of political gridlock and conflict interspersed with periods of relative calm as a result of temporary stopgap measures. This system has proven to be a fundamentally flawed mechanism for creating sustainable political representation in Lebanon.

Unlike the case of other countries in the European Union's neighbourhood where the dilemma of stability versus democracy has undermined the EU's commitment to political

reform, the recognition that the Lebanese political system is in fact the cause of instability has led to a full European commitment to the need for reforming Lebanon's internal reality as well as geopolitical context in order to stabilise the country. As a result, European states as well as the European Union's institutions have attempted to tackle the multifaceted challenges facing Lebanon. Since the end of the Lebanese civil war, European diplomatic activity has focused on acting as a mediator between internal and regional forces to prevent the disintegration of the Lebanese political system. This has consisted mainly of an attempt to reinvigorate the Middle East peace process. Furthermore, European external aid has provided Lebanon with significant amounts of financial and technical aid and assistance to promote state reconstruction and institutional reform.

Despite the EU's commitment to reform, its record has highlighted the limits of its role as a positive agent for democratic reform in Lebanon. These impediments stem both from the EU's weakness as a strategic player in the Middle East capable of affecting the geopolitical context of the region, and from a flawed approach to reforming the Lebanese state. The EU has been unable to develop a coherent and overarching strategy that addresses the real hurdles to political reform in Lebanon. The EU's state building approach in Lebanon focuses on traditional developmental and technical aid that does not address the main problems of state capacity and state accountability. Also, there is a lack of systematic coordination on assistance to Lebanon both between individual member states of the European Union in their bilateral cooperation with Lebanon as well as between member states and the European Commission. Furthermore, European states have pursued traditional diplomatic mediation approaches that do not attempt to coordinate with democracy assistance tools.

The confessional system: flawed but entrenched

Lebanon's political system is one of the most complex in the Middle East. Based on the premise that a careful balance in all aspects of political life must be maintained among the seventeen recognised religious communities, this confessional system has given Lebanon a semblance of democratic practice: regular elections, numerous political parties, and news media that are relatively free and lively compared with other Arab countries. At the same time, the distribution of power on a confessional basis has prevented the emergence of a state, let alone a democratic one.

All political and bureaucratic positions in Lebanon are allocated along confessional lines. The institutionalisation of long established social, cultural identities based on confessional and sectarian loyalties has resulted in a collection of de facto mini-states responsible for all the needs of their respective constituents rather than in a central authority capable and willing to deliver basic services to citizens.¹ Lebanon holds regular elections for the parliament but

it cannot be described as an electoral democracy. The sectarian balancing act prevents the establishment of an electoral law that will guarantee fair representation. Electoral districts are blatantly gerrymandered before every election to ensure the re-election of incumbent deputies and to result in weak coalitions of independent candidates.²

The segmented political landscape and the absence of national institutions render Lebanon ungovernable when there are political disagreements among the leaders of the major communities. In the absence of a central authority to arbitrate, political actors are involved in zero sum negotiations where every compromise is seen as a threat to their existence. As a result, systemic instability has haunted the country since independence, surfacing in episodes of violence, the most significant of which was the 1975–1990 civil war.³

The confessional system also makes Lebanon particularly vulnerable to the political and strategic battles of its difficult neighbourhood. The fact that it is impossible for any one domestic force to generate sufficient power to govern invites the disproportionate influence of outside actors, so that different Lebanese factions appeal to different external actors for financial and/or diplomatic assistance that can be translated into greater power internally. Syria, like many foreign powers before it, was able to exploit the weaknesses of the confessional system both during and after the Lebanese civil war, ultimately becoming the main power broker in Lebanon.⁴

Many Lebanese politicians acknowledge the flaws of the existing system and have paid lip service to 'deconfessionalisation', that is abolishing power-sharing arrangements that divide executive and legislative power into sectarian allotments.⁵ The corrupt patronage system, however, has created vested interests in perpetuating the status quo. The confessional system has also prevented the emergence of powerful grassroots demands to change the system. The debate surrounding electoral reform is perhaps the most telling example of the fact that despite a realisation by the political elite that the current system is inefficient and unrepresentative, the focus is always on short-term benefits or concessions rather than structural change. The problems of Lebanon's election law are widely acknowledged and an independent National Commission on Electoral Law Reform was formed in August 2005 to identify needed revisions. The commission submitted a draft law to the Council of Ministers

¹ An informal agreement has existed since 1943 whereby the president must always be a Maronite Christian, the prime minister a Sunni Muslim, and the speaker of parliament a Shia Muslim. The members of this troika have almost equal power, though in different capacities. The parliament's 128 seats are equally divided among Muslims and Christians, and subdivided proportionally among the two groups' various denominations.

² Since the end of the civil war, the ad hoc districting system also served to undermine potential opponents to Syria's role in Lebanon.

³ Changing demographic trends compounded by the involvement of external actors in Lebanon resulted in the outbreak of civil war in 1975. The Arab–Israeli conflict brought the inherent conflicts of the Lebanese system to a head as groups inside Lebanon split over the domestic presence of armed Palestinian forces. The 1989 Ta'if Accord, an agreement brokered by several Arab states (particularly Saudi Arabia), ended the Lebanese civil war and codified many of the provisions of the 1943 National Covenant, thus perpetuating the principle of confessional distribution of power.

⁴ Syrian military forces first entered Lebanon as a peacekeeping force in 1976, invited mainly by Christian Lebanese and endorsed by the Arab League.

⁵ The Ta'if Accord proposes ways to abolish confessional representation but these proposals are not part of a serious national political debate.

on 1 June 2006 that addressed the major flaws in electoral legislation. Following years of squabbling over the details, politicians finally reached an agreement in May 2008 that made a passing reference to the draft legislation proposed by the commission, but in fact ignored its key provisions.⁶

Searching for a new *modus vivendi*

The assassination of Rafiq al-Hariri, the former prime minister, on 14 February 2005, and the subsequent withdrawal of Syrian troops from Lebanon in April 2005 have shaken the local and regional equilibrium that governed Lebanon since the end of the civil war. The end of Syrian tutelage over Lebanese politics unleashed issues that were suppressed since the close of the civil war, ranging from sectarian relations and the distribution of power to the question of Hizbullah's arms and the status of armed Palestinian refugees.

The withdrawal of Syrian troops also reflected the end of the wider international consensus that emerged at the end of the Lebanese civil war based on the assumption that stability was the first priority in Lebanon and that Syria could ensure this objective by keeping the fractious sectarian groups and militant organizations in check. Beginning in 2000 regional developments gradually eroded this international consensus. As a result of the collapse of Israeli–Syrian negotiations, the death of the Syrian president, Hafez al-Asad, Israel's withdrawal from South Lebanon, the US war in Iraq, and the ascendant power of Iran in the region, Lebanon is once again at the heart of a strategic tug-of-war between the region's main players: Iran, Syria, Israel, and the United States. The current situation in Lebanon must therefore be understood against the deterioration of the Arab–Israeli conflict and the increasing tension in US - Syrian and US - Iranian relations.

The upsetting of the old local equilibrium coupled with the fierce regional and international competition has pushed Lebanese politicians to adopt maximalist positions, which does not bode well for a process of democratic political reform. Within a year of the Syrian withdrawal, the disparate parties and confessional groupings had coalesced into two rival camps. The March 14 group (named after the largest of the protests in 2005 to demand Syrian withdrawal) is composed primarily of Sunni, Druze, and Christian politicians and controls the majority of seats in the parliament. It receives diplomatic support from the United States, France, and key Arab states such as Saudi Arabia, Jordan, and Egypt. Its main goal is to contain Syrian ambitions and, more specifically, to ensure the implementation of a UN resolution to

⁶ As part of the Doha agreement of 21 May 2008 politicians agreed to return to the 1960 electoral law that adopts small electoral districts.

establish a tribunal to try suspects in the al-Hariri assassination. The March 8 group (named after the largest Hizbullah-led protest in 2005) brought together the two Shia parties (Hizbullah and Amal) with the Maronite Free Patriotic Movement led by Michel Aoun. The March 8 group denies the legitimacy of the March 14 coalition as the governing majority, claiming its actions have been unconstitutional. The March 8 group's international patrons are Iran and Syria, with Damascus providing political and material assistance and, in Hizbullah's case, military supplies.

Both groups believe that Lebanon's identity and its future relations with its neighbours and international actors are at stake in the current tug-of-war: March 14 strives to prevent further involvement in regional conflict and accuses Hizbullah of being subservient to Syria and Iran; March 8 accused March 14 of working for US and Israeli interests. In a very worrying trend, the conflict has been acquiring greater sectarian overtones.

The confrontation between the two blocs was exacerbated by a wave of assassinations of politicians and journalists belonging to the March 14 group that began in late 2004. In 2007, a series of car bombs also began targeting civilians and commercial neighbourhoods in and around Beirut.⁷ The devastating 34-day war launched by Israel on Lebanon in summer 2006, after Hizbullah kidnapped two Israeli soldiers and killed three others, further exacerbated the political divide and renewed sectarian anxiety.⁸ It also ended the attempt by Lebanese politicians to find through negotiations compromise solutions for the major issues that divided the two camps.⁹ The standoff between the political groups virtually paralysed the institutions of the Lebanese state.

The outbreak of violence in May 2008—the worst internal fighting since the end of the civil war—demonstrated the extent to which the parties perceive the conflict as an existential one, one that was threatening their very existence as parties and communities of influence. A government decision on 6 May to reassign the head of Airport Security at Beirut International Airport and to investigate and dismantle a separate telecommunications network run and controlled by Hizbullah triggered violent clashes in which fighting units of Hizbullah and Amal attacked and overran positions defended by armed supporters of the government. The Qatari-mediated Doha agreement of 21 May has averted further violence

⁷ The March 14 group accused Damascus of being behind these incidents in order to eliminate the group's parliamentary majority through a step-by-step physical elimination of legislators. On the other hand, the March 8 group claimed that only Israel would benefit from the disintegration of public order in Lebanon.

⁸ The conflict between 12 July and 14 August 2006 resulted in the death of over 1,000 Lebanese civilians, displaced almost one million Lebanese, and caused extensive damage to infrastructure, public services and livelihoods. Prospects for Lebanon's economic growth and development were seriously undermined.

⁹ The leaders of fourteen political groups launched a series of meetings—known as the National Dialogue—on 2 March 2006, and initially made some progress. They agreed to set up the tribunal to try the suspects in al-Hariri's assassination, disarm Palestinian factions outside refugee camps within six months, and establish full diplomatic ties with Syria. They also agreed that the Shebaa Farms—an Israeli-occupied area on the Lebanese-Syrian border—is Lebanese, not Syrian territory. But two of the most controversial issues remained unresolved: the UN calls for the disarmament of Hizbullah and the fate of President Emile Lahoud.

by filling the institutional vacuum. The parties agreed to elect Michel Sleiman, the former commander-in-chief of the army, as president thus ending the six-month presidential vacuum. They also formed a unity government on 11 July, in which the governing majority has 16 seats and the opposition got their long-standing demand of 11 cabinet seats—which guarantees them veto power. The new president nominated the remaining three ministers.

The situation, however, remains very volatile since the local and regional triggers discussed above are still firmly in place. Furthermore, Hizbullah's use of its arms internally has intensified communal animosity and provided fertile ground for radicalization and rearmament among other factions in Lebanon. The tension between the two camps in Lebanon continues to threaten domestic stability and undermine the chances of political reform. Debates about political and economic reform, which already had a slim chance of leading to significant change in the first place, have now been completely undermined by short-term tactical considerations as the various political forces struggle to obtain and retain the upper hand in the new balance of power.

The role of European states in the latest crisis has highlighted the centrality of Lebanon's stability for Europe's interests. From Europe's perspective, Lebanon's security is vital for the security of the entire Mediterranean region and therefore preventing the disintegration of the Lebanese political system is a priority. To achieve this objective, the focus has been primarily on diplomatic activity aimed at mediating between internal and regional forces.

Europe's diplomacy

The European Union's diplomatic record throughout Lebanon's recent crisis has highlighted its strengths and weaknesses as a strategic player not just in Lebanon, but also in the Middle East in general. A discussion of European diplomatic activity has to begin with the separate foreign policies of the EU member states most involved in Lebanon. Despite converging interests and greater coordination between their activities, European states continue to operate based on their own considerations.

France

France's historic ties with Lebanon (Lebanon was governed by France as a League of Nations mandate between 1919 and 1943) have placed it at the forefront of European diplomatic activity. French policy since the end of the Lebanese civil war has focused primarily on maintaining special relations with Lebanon and avoiding instability. In light of this objective, France acquiesced to Syrian military presence in Lebanon based on the assumption that Syria would restore public order by keeping the fractious sectarian groups and militant

organisations in check. At the same time, France was always keen to maintain its influence in both countries. Former French president Jacques Chirac had particularly close ties to Lebanon due to his personal relationship with Lebanon's former prime minister, Rafiq al-Hariri. With Bashar al-Asad's succession in Syria in 2000, France also increased its contacts with Syria and involved itself in the new process of administrative reform in the country.¹⁰

By 2004, France had started to lose confidence both in Syria's stabilising role in Lebanon as well as in the Syrian government's willingness to deliver economic and administrative reform.¹¹ Syria's brazen interference with the Lebanese political system to keep former president Emile Lahoud in office—coupled with Chirac's growing disenchantment with Bashar al-Asad—exacerbated French concerns and ultimately led France to join the United States as co-sponsor of United Nations Security Council Resolution 1559 (September 2, 2004) calling for the withdrawal of “all remaining foreign forces,” understood to mean Syria, from Lebanon. The resolution also called for the “disbanding and disarmament of all Lebanese and non-Lebanese militias,” a clear allusion to Hizbullah. According to French officials, this clause went against French preferences of not alienating the movement but was included upon US insistence.

Following al-Hariri's assassination, France suspended relations with Syria and strongly backed the establishment of an international tribunal to investigate the murder. As the Lebanese political scene grew increasingly polarised, France also provided strong diplomatic support to the March 14 coalition.

The Élysée was also very active in pushing for a cease-fire agreement between Israel and Hizbullah following the summer 2006 war and France helped draft the United Nations Security Council Resolution 1701 which was unanimously adopted on 11 August 2006. France committed 2,000 troops to the reinforced UN Interim Force in Lebanon (UNIFIL) mission.¹²

French policy toward Lebanon under President Nicolas Sarkozy has experienced some changes in its style. Firstly, in marked contrast to Chirac's mandate, Sarkozy has made an effort to depersonalise relations between French and Lebanese politicians. For example, in his first visit to Lebanon, Sarkozy led a delegation of French ministers and the leaders of

¹⁰ Chirac invited Bashar al-Asad to make a state visit to France in June 2001, dispatched trusted advisers to help steer administrative modernisation, and sent a close aide (Jean-François Girault, a former presidential adviser) as ambassador to Syria.

¹¹ In addition, Syria granted a contract for exploitation of new gas fields to a US-British-Canadian consortium, not to France's Total.

¹² On 11 August 2006 the United Nations Security Council unanimously adopted Resolution 1701, which called for: a cessation of all attacks by Hizbullah and an end to Israel's offensive operations; the parallel withdrawal of Israeli troops and deployment of the Lebanese army; an increase in the size of the UNIFIL force stationed in the area since 1978 from previously 2000 to up to 15,000 troops as well as a broader and more robust UNIFIL mandate authorizing force to ensure its area of operations was not utilised for hostile activities of any kind; a central role for the UN Secretary-General, who was to present specific proposals aimed at resolving disputed border issues within 30 days (report submitted on 12 September), notably including the status of the disputed Shebaa Farms. As of 30 April 2008, UNIFIL employs 12,341 military personnel, supported by 307 international civilian and 606 local civilian staff. European countries involved include: Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxemburg, Netherlands, Norway, Poland, Portugal, Spain, and Sweden.

France's major political parties to Lebanon, becoming the first Western head of state to meet President Michel Sleiman since his election on 25 May. According to Sarkozy, the decision to bring such a large and diverse delegation for the occasion was intended to show that "France's solidarity with the Lebanese people and our country's commitment to Lebanon's independence and sovereignty have nothing to do with parties, or individuals."¹³

Secondly, French policy under Sarkozy has adopted a more conciliatory position towards the "March 8" group than under Chirac in the hope of creating an environment more conducive to the resolution of the gridlock. This has been accompanied by a much more vigorous shuttle diplomacy approach. Soon after his election, Sarkozy sent a high-level envoy to Lebanon to restart the frozen dialogue between the parties and invited all the Lebanese factions involved in the national dialogue to an inter-Lebanese meeting at Celle Saint-Cloud in France in July 2007.

Thirdly, France has made considerable diplomatic investment in restoring high-level ties with Syria since Sarkozy's accession in May 2007. After a highly publicised initial attempt by France's foreign minister Bernard Kouchner to enlist Syrian support failed to push forward a resolution to the Lebanese crisis, Sarkozy announced he would freeze relations with Syria and would only renew them if Damascus collaborated in diffusing the Lebanese crisis. Soon after the election of a new president in Lebanon, France moved to restore high-level contacts with Syria, sending two senior envoys—Jean-David Levitte and Claude Guéant—to meet with Bashar al-Asad in Damascus on 15 June 2008. These efforts culminated in a very public and symbolic trip by al-Asad to Paris to attend the summit for the Barcelona Process: Union for the Mediterranean and join in Bastille Day celebrations on 12-14 July 2008.

At the summit, Sarkozy announced that Syria and Lebanon would open embassies in both countries, a very significant development given Syria's resistance to fully normalising relations with Lebanon. Such a normalisation would entail exchanging embassies, but more importantly, demarcating the border between Syria and Lebanon. Sarkozy also called for reviving efforts to negotiate the EU-Syria association agreement.

Despite the changes in style from Chirac to Sarkozy, French policy guidelines in Lebanon remain the same: promoting internal dialogue to avoid instability in Lebanon, and ensuring that Syria's grip on Lebanon does not derail French influence in the country. It can be said that Sarkozy has tried to send the message to Syria that his approach is different from that of Chirac, but that he still has firm conditions for engagement. France has also continued to

¹³ Interview given by Sarkozy to Lebanese newspapers on 7 June 2008. Full text: <http://www.ambafrance-uk.org/President-Sarkozy-gives-interview,10740.html>.

collaborate with the United States on Lebanon policy and both countries have strived to portray an image of harmonised policy decisions.¹⁴

Other European member states have historically been less involved than France in the internal politics of Lebanon and view the country primarily through the lens of broader regional interests. Efforts in this context have focused on an attempt to reinvigorate the Middle East peace process

Germany

Germany is vested in maintaining stability in Lebanon due to a concern that conflicts in the region could have an impact on European security and due to its sense of historical responsibility for Israel's existence and security. Under the leadership of Angela Merkel, German chancellor since November 2005, the German government declared the Middle East conflict to be one of its top priorities. The German presidency of the EU (from January to June 2007) had three main goals for its Middle East policy: to revive the Middle East Quartet, to stabilise Lebanon, and to achieve progress towards a comprehensive peace settlement. Following the 2006 war, Lebanon became one of four large-scale missions with a long-term orientation for the German government.¹⁵ German sensitivities to the potential danger of German troops clashing with Israeli soldiers limited Germany's involvement in UNIFIL (which began on 15 October 2006) to commanding the Maritime Task Force (MTF) along the coast of Lebanon, whose task, in conjunction with the Lebanese navy, is to prevent arms smuggling at the country's maritime borders. On 29 February 2008 Germany handed over the command of the MTF to the European Maritime Force (EUROMARFOR) that is currently led by Italy.¹⁶

Germany has also taken the lead in assisting the Lebanese government in controlling the land border with Syria to curb cross-border smuggling and illegal arms trade. The project focuses on providing technical support and training to Lebanese security forces and is managed by the German Federal Ministry of the Interior and the Federal Foreign Office in collaboration with Denmark, the United Kingdom, and the United States with funds from the European Commission.

Since the beginning of the 1990s, Germany has also been carrying out a key role in the realisation of indirect talks on the exchange of prisoners and remains between Israel and

¹⁴ Although the United States initially voiced unease over the Franco-Syrian rapprochement, US secretary of state, Condoleezza Rice said on 14 June she was confident that France would "communicate the right messages" to al-Asad.

¹⁵ The others missions are Bosnia since 1995, Kosovo since 1999, and Afghanistan since 2002.

¹⁶ As of May 2008, the German Navy is still the biggest contributor to the UNIFIL MTF sending four vessels. These four vessels are complemented by two Italian, two Greek, one French, one Spanish and one Turkish vessel to comprise the 11-vessel UNIFIL Maritime Task Force.

Hizbullah.¹⁷ Most recently, Germany helped mediate a deal on 16 July in which Hizbullah exchanged the bodies of two Israeli soldiers captured in July 2006 in return for five Lebanese prisoners and the remains of 200 Lebanese and Palestinian fighters.

Italy

Italy's involvement in Lebanon has reflected the shifts in its policy toward the southern Mediterranean in general, which has been characterised by a trend whereby centre-left governments have favoured relations with the EU whereas centre-right governments have favoured developing closer ties with the United States. In this context, Italy's increased involvement following the 2006 war reflected the eagerness of Romano Prodi's centre-left government (elected in April 2006) to cooperate with other EU members to reinforce a European foreign policy and depart from the "Atlanticism" of the Berlusconi era. Engagement in Lebanon presented Italy with a window of opportunity to take the lead in bolstering European efforts to revive the Middle East peace process and more broadly to inject momentum into the Euro-Mediterranean Partnership (EMP). Italy was very active in trying to end the 2006 war between Israel and Lebanon and hosted a conference in Rome on 26 July 2006 to discuss how to bring an end to the conflict and to pledge future support for Lebanon's reconstruction. Italy also pushed to enlarge the UNIFIL presence in South Lebanon and contributed the largest contingent with 2,450 troops.

Since Silvio Berlusconi's re-election in April 2008, statements both by Berlusconi and the Italian foreign minister, Franco Frattini, have reflected a harder stance on the issue of Hizbullah's disarmament. Berlusconi pledged to maintain Italian troops as part of UNIFIL, but alluded to the need to revise the rules of engagement for UNIFIL soldiers. Frattini formulated these demands initially, but in mid-June 2008 stated that for the moment, it was not possible to rework UNIFIL's rules of engagement given the situation in the country but that the rules of engagement in their current form, if fully applied, would suffice. In an 8 July visit to Israel, Frattini also expressed Italy's willingness to mediate in direct peace negotiations between Israel and Lebanon.

Spain

Spanish policy toward Lebanon has been framed within its policy toward the Arab-Israeli conflict and by its leading role in the Barcelona Process: Union for the Mediterranean. In this context, involvement in Lebanon gives Spain the opportunity to be more involved both in

¹⁷ The largest prisoner exchange took place in January 2004 when Israel released 400 Palestinians and 23 Lebanese, in exchange for an Israeli reservist and the remains of three other Israeli soldiers.

the Middle East as well as within Europe. As in the case of Italy, the change in leadership in Spain has also increased Spanish activity in Lebanon. Spanish foreign minister, Miguel Angel Moratinos (who assumed his post in March 2004), has a history of involvement in the Middle East peace process and a personal conviction that Spain should be more involved in the region. The numerous visits by Moratinos to Lebanon and Syria during the summer 2006 war and subsequent visits aimed at getting the Lebanese parties to agree on a new president, indicate a clear decision by the Spanish government to be involved in the crucial political moments in Lebanon. The Spanish contribution to UNIFIL (1,100 troops) has also raised the stakes for Spanish policy in the country.

EU strengths and weaknesses

European states' diplomatic record in Lebanon shows that Europe can play an important and constructive role in mitigating conflict, primarily by convincing domestic actors to step back from the brink and therefore avoid the disintegration of order. Unlike other foreign powers with interests in Lebanon, Europe has exhibited a conciliatory approach based on a consensus around the notion that Lebanon cannot be governed without the agreement of its principal political coalitions and, therefore, that Europe must actively pursue the role of mediator. This common approach was expressed most clearly through the coordinated visits to Lebanon of the foreign ministers of France, Spain, and Italy (Bernard Kouchner, Miguel Angel Moratinos, and Massimo D'Alema) in October and November 2007. Joint European involvement in UNIFIL has also increased the leverage of the EU in preventing a new violent conflict on Lebanon's southern border.

EU member states have also adopted a nuanced approach to the question of Hezbollah's arms. While acknowledging that the existence of an armed militia independent of the government is an obstacle to democratic reform in any country, European states have for the most part demonstrated acceptance of the fact that the debate over Hezbollah's status is very complex because it is not limited to the Lebanese context. Most European governments perceive that since its establishment in 1982, Hezbollah has become a multifaceted organization that is a political party, a vast social welfare network, and a regional movement and militia allied with Syria and Iran to deter US and Israel's ambitions in the region. Given this reality, European states accept the fact that barring a breakthrough in the Arab-Israeli conflict, the prospects of the group's disarmament remain very distant. This is accompanied by a belief that the disarmament of Hezbollah can only be done in a cooperative and gradual manner; in full consultation with Hezbollah itself. As such, European states have preferred to engage the group and make efforts to reduce or contain the likelihood of Hezbollah using its large military potential—an approach that has given Europe a fair degree of diplomatic leverage. For example, Germany is interested in maintaining its rather unique role as a successful mediator in prisoner swaps between Hezbollah and Israel.

In light of these considerations, most European governments have resisted including Hizbullah on the list of terrorist organisations despite the fact that in March 2005 the European parliament branded Hizbullah as a terrorist organisation and urged EU governments to place the group on their terrorist blacklists.¹⁸ France, Spain, and Italy have been particularly opposed to this designation. The Netherlands, on the other hand, included Hizbullah in its terrorism list in 2004. The British government added the military wing of Hizbullah to a list of terrorist groups banned in the United Kingdom on 2 July 2008.¹⁹

While these positions have helped European efforts at mediation, the recent crisis has highlighted the extent to which Europe is limited in its ability to bring about a sustainable solution. Europe has limited influence on the likelihood of a comprehensive regional, political, and diplomatic agreement between the United States, Iran, and Syria that would address all issues of regional concerns. Such an agreement would allow efforts at stabilisation to occur in a less explosive environment.

Despite the convergence of some member states' policies in Lebanon, deep disagreements among European states continue to impede a unified European policy. This was demonstrated most visibly in European states' response to the summer 2006 war between Israel and Lebanon. While the large majority of the EU's 25 states called for an immediate cease-fire, the United Kingdom mirrored US policy, insisting that it would be futile to demand an end to the fighting until the "necessary conditions for a durable, sustainable ceasefire that would prevent a return to the status quo ante" were present.²⁰ The EU's High Representative for the Common Foreign and Security Policy Javier Solana visited Lebanon at the height of the conflict but he was not given a mandate by the Finnish EU presidency to speak on behalf of the 25 member states, as recommended by Jacques Chirac. At the end of the crisis, Chirac explicitly expressed his concern that the European Union was insufficiently active in the crisis and that its slow reaction to stop the destruction of Lebanon highlighted the weaknesses of the EU's foreign policy.²¹

In addition to vigorous diplomatic activity, the European Union's policy for stabilising Lebanon has relied on significant financial aid, allocated both at the multilateral level (mainly through EU institutions) as well as bilaterally through the individual member states.

¹⁸ The European Parliament declared that "clear evidence exists of terrorist activities by Hizbullah" and that "[that EU] Council should take all necessary steps to curtail them", during a 10 March 2005 session in Strasbourg. The resolution was nonbinding on the European Council, which would have to come to a unanimous agreement to approve such a designation.

¹⁹ According to Home Office minister Tony McNulty, the action has been taken amid concerns over the extent to which Hizbullah is helping Shia militias in southern Iraq (where Britain has 4,000 troops). He clarified that Hizbullah's social and political work in Britain would be unaffected.

²⁰ The UK Foreign and Commonwealth Office:

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1155215622782>

²¹ "Jacques Chirac deplore que l'Europe ait été trop absente de la crise libanaise", *Le Monde*, August 28, 2006.

Member states' assistance

The EU member states' bilateral aid is very limited, relative to the levels of aid they channel multilaterally (either through the EU commission or through UN agencies). In general, European bilateral aid to Lebanon has consisted of financial and technical assistance aimed at improving socio-economic standards and strengthening state institutions. Although some funds have also been allotted to "governance" objectives and human rights projects, democracy promotion has not been a central objective of this aid.

France

France is one of the main contributors of aid, particularly since the French government declared Lebanon part of the Priority Solidarity Zone on 14 February 2002. French aid consists mainly of technical assistance and training in education, scientific research, and in public administration. It has also provided funding for reconstruction in the water, electricity, civil aviation, and health sectors. Following Lebanon's civil war, France was the main driver behind multiple donor conferences to develop an economic reform plan for Lebanon and request economic aid for the post-war reconstruction.²² France also contributes limited funds to "governance," which entails mainly the modernisation and streamlining of state institutions. The French embassy in Lebanon has also worked on human rights issues with local NGOs, most recently on raising awareness of the violation of human rights of immigrant workers in Lebanon.

Italy

Italy's bilateral aid to Lebanon focuses on the environment, water management, agro-technologies, health, and technical assistance, and does not include any political reform aid. This is a reflection of Italy's wider foreign policy, which has never developed an external human rights and democracy support programme. The only office within the Ministry of Foreign Affairs dealing with human rights issues is the multilateral office. Under Berlusconi, Italy offered to chair the Democracy Assistance Dialogue of the US-driven Broader Middle East Initiative, but this was widely interpreted as an attempt to foster relations with the United States rather than an increased interest in the promotion of democracy per se.

²² France convened the first meeting with international institutions to discuss Lebanon's economic development on 23 February 2001. The Paris I meeting raised €500 million in international aid. The Paris II meeting on 23 November 2002 raised €4.2 billion (€3.1 billion in financial aid and €1.3 billion in project aid).

Spain

Spanish bilateral aid to Lebanon has also focused on humanitarian objectives and socio-economic development. This reflects a general trend of Spanish policy in the Middle East. Guided by pragmatic considerations about maintaining good ties with governments because of geographical proximity, Spanish policy has been characterised by the low-level of involvement in democracy and human rights issues, regardless of the party in power. According to Spanish officials, due to its limited resources in Lebanon, the Spanish government would rather work on short-term projects with demonstrable impact. Spain has recently expressed its intention to start engaging in projects aimed to advance political development in Lebanon. The 2005-2008 Master Plan for Spanish Cooperation establishes Lebanon as a country deserving "Special Attention" and identifies "governance" as one of the strategic sectors.²³ The objectives include: strengthening political pluralism; encouraging greater participation of civil society; enhancing the rule of law by strengthening judicial and economic institutions; and modernising public administration. The projects introduced in this sector so far, however, have only focused on administrative reform: institutional building of the insurance control commission, a seminar on human resource management in public administration, a seminar on tax systems, and a seminar on trade. Even programmes that can more readily be classified as "democracy assistance" have in practice only targeted technical issues. For example, Spain's programme on "strengthening the judiciary system in Lebanon" comprises modernising the organisation and material means of departments in the Ministry of Justice as well as training activities for judges.

Spain's Agency for International Cooperation (AECI) recently declared the launch of a programme on "governance and institution strengthening in the Mediterranean". The project is based on the explicit logic that Spain enjoys a comparative advantage as a democracy promoter due to its recent experience with democratisation. It aims to coordinate aid from public and private entities in Spain. It is not yet clear what type of projects this programme will fund since AECI's efforts to identify the priorities for engagement in Lebanon have been stalled by the country's political situation.

Germany

German assistance to Lebanon focuses on aiding reconstruction and development to maintain peace. The German government's bilateral aid has increased significantly since the summer 2006 war, but the types of projects funded remain the same. Between 1990 and

²³ Spain's 2005-2008 Master Plan for International Cooperation places 15 countries in the "Special Attention" classification, which brings together countries in special circumstances due to the need to prevent conflict, weakness on human rights and the democratic system, and financial and social crises that increase the level of poverty in the most vulnerable sectors of society.

mid-2006, German funding for general development cooperation and humanitarian aid amounted to approximately €132 million.²⁴ The aid was geared mainly toward vocational and technical education as well as environmental protection. The German government classifies vocational training as human rights work, as reflected in the “Development Policy Action Plan for Human Rights 2004-2007.”²⁵ After the war, Germany approved a €40 million package for 2006 and 2007 and pledged a further €40 million for humanitarian aid and development assistance, but the priorities have remained the same.²⁶

The German embassy in Lebanon funds projects by local NGOs on human rights issues, including abolishing the death penalty and promoting Lebanon’s ratification of the Rome Statute of the International Criminal Court. In addition, the embassy has financed a number of projects run by the Sustainable Democracy Centre (a Lebanese NGO) on strengthening inter-communal dialogue and abolishing confessionalism in the management of economic life and in the organisation of electoral and institutional influence.

Germany also provides assistance to Lebanese civil society through the party-affiliated political foundations (*politische stiftungen*), which are funded by the German Ministry of Economic Cooperation and have an explicit mandate to promote democracy at home and abroad. Several political foundations have projects in Lebanon, but only the Heinrich Böll Foundation (affiliated with the Green Party) and the Friedrich Ebert Foundation (affiliated with the Social Democratic Party) have offices in Beirut.²⁷ Through its “Statehood and Participation” programme, the Heinrich Böll Foundation supports local NGOs “working on initiatives that demand accountability and due process and encourage citizens to become active and organised around issues of democratic participation”.²⁸ The Friedrich Ebert Foundation has established “good governance” as one of its priorities in Lebanon and focuses on municipal politics.²⁹

United Kingdom

The United Kingdom’s bilateral aid to Lebanon integrates political reform aid in a more structured way than other European countries. The Global Opportunities Fund (GOF) established in 2003 at the Foreign and Commonwealth Office identified four priorities for

²⁴ Germany also provided Lebanon with bilateral aid worth approximately €42.3 million in the form of low-interest loans under Financial Cooperation (FC) and €23.2 million in the form of consulting services or supplies of material under Technical Cooperation (TC) proper.

²⁵ Federal Ministry for Economic Co-operation and Development, July 2004.

²⁶ Germany also provided immediate relief aid with over €6.5 million channelled through international aid agencies.

²⁷ Friedrich Naumann Stiftung, Konrad Adenauer Stiftung and Hanns Seidel Stiftung are covering projects in Lebanon from their offices in Amman.

²⁸ The Heinrich Böll Foundation’s annual budget for projects in Lebanon is approximately €1 million. Its work includes improving electoral standards in Lebanon, regional initiatives to promote the independence of Arab judiciaries, and campaigning for equal nationality rights for women in Arab countries (women in Lebanon cannot pass on their nationality to their foreign spouses and children). <http://www.boell-meo.org/>

²⁹ The Friedrich Ebert Foundation had a 2007 budget of € 155,000 and a 2006 budget of € 200,000. Its activities include: organizing workshops to increase the awareness of local politicians concerning the integration of environmental and women NGOs in municipal politics; training employees in municipal administrations within the fields of municipal law; integrating civil society in municipal politics; and encouraging youth participation. <http://www.feslb.org/>

democratisation in Lebanon: promoting the participation of women in society, good governance, the rule of law, and counter-terrorism. Between December 2005 and 2006, the UK provided £203,354 for technical assistance for Lebanon's National Commission on Electoral Law Reform and £101,000 for empowering youth civic organizations. Lebanon was also part of a number of regional GOF projects such as the United Nations Development Fund for Women (UNIFEM) for Arab Women Parliamentarians and the BBC Journalism Standards Training in the Middle East and North Africa (MENA) region.

In 2008 a new program replaced the GOF: the Strategic Programme Fund (SOF). The SOF has shifted the focus exclusively to counter-terrorism and frames political reform goals such as developing civil society, human rights, and rule of law within the counter-terrorism strategy. So far two new programs have been introduced aimed at "mobilizing youth against extremism" and "countering the influence of radical parties in Palestinian refugee camps".³⁰

The British embassy in Beirut also funds small projects (between US\$1000 to US\$5000) in the following sectors: empowering youth, women, and underprivileged and marginalized segments of society; development and capacity building; human rights; and inter-communal dialogue.

EU multilateral aid

EU multilateral aid to Lebanon has incorporated political reform objectives to a much greater extent than member states' bilateral aid. Certain elements in the approach, however, limit the effectiveness of this aid in promoting democracy. The most significant problem in the EU's approach to political reform in Lebanon is that it avoids dealing with the main blockages to democracy in the country. The framework's objectives, while worthy in and of themselves, do not target the sensitive but core issues of political representation and institutional power in Lebanon. Also, levels of aid destined to political issues continue to be very limited relative to other traditional developmental aid.

The Barcelona Process, launched in 1995 to foster cooperation between the European Union's member states and the countries that qualified as "Mediterranean partners," introduced the issue of democracy into EU-Mediterranean relations, for the first time explicitly identifying political pluralism as a norm that should govern relations between Europe and the Arab world. The declared aim of developing a pluralistic democratic society based on respect for human rights and the rule of law would be pursued indirectly through three pillars: a political and security partnership to establish "a common area of peace and stability",

³⁰ The project "Mobilising Youth Against Extremism" will receive £189,000 for one and a half years to "build the capacity of youth-focused civil society organizations to use community action projects to divert youth from extremism". The program to "counter the increasing influence of extremist political parties on the youth in the Palestinian refugee camps of Rashidieh and al-Buss" will receive £70,665 for one and a half years.

an economic and financial partnership aiming to create “an area of shared prosperity” mainly through the establishment of a free trade area, and a social and cultural partnership dedicated to human resources development, better understanding between cultures, and exchange between civil societies.

The EU-Lebanon Association Agreement, which was signed in June 2002 and entered into force on 1 April 2006, focuses on reforms affecting EU-Lebanese trade relations, but also includes a clause stating that “relations between the two parties, as well as the provisions of this Agreement itself, shall be based on democratic principles and fundamental human rights as set out in the Universal Declaration of Human Rights.”³¹ The agreement establishes continuous “political dialogue” whereby Lebanon is expected to discuss political reforms with the EU.

Despite the stated intention to advance political reform, the distribution of MEDA assistance, the main financial instrument of the Euro-Mediterranean Partnership, has demonstrated that political reform is not a priority. Between 1995 and 2006, the total amount of funds committed under MEDA I and II was €417 million, but a very limited portion went to programmes related to political reform. MEDA focused instead on the rehabilitation of Lebanese administration, an investment-planning programme, industrial modernisation, and social and economic development.

Furthermore, in the few cases where programmes were defined as political aid, they focused on administrative and technical issues, not on democratisation. For example, the MEDA programme provided €1,500,000 for the reform of the Lebanese judiciary system, but this entailed providing conference halls for training judges, exchange study courses for judges in Europe, providing technical support to the Ministry of Justice for the preparation of a master plan for computerising all Lebanese court work, and purchasing works and magazines pertinent to the European legal system. MEDA also launched a € 1,000,000 programme for strengthening Lebanese civil society, known as AFKAR, with the objectives of promoting citizenship and rule of law, fostering inter-communal dialogue, and supporting marginalised groups.³² The 16 projects funded had very worthy objectives, but only very few address issues that can be considered relevant to democratisation in Lebanon.

Another problematic element of the EU’s financial support under MEDA was that the method of fund allocation reinforced the problems of political representation in Lebanon. For one thing, state representatives on MEDA’s grant-awarding committee in Lebanon, attached to the Office for the Minister of State for Administrative Reform (OMSAR), are appointed

³¹ These principles “guide [the] internal policy and constitute an essential element of [the Euro-Lebanese Association] agreement”, Association Agreement with Lebanon (Article 2).

³² The maximum amount granted by project was 50,000. AFKAR II was recently launched with a budget of 3,000,000.

according to sectarian affiliation. Also, OMSAR selected the Lebanese NGOs that would receive funds from the EU.

The priorities established in the National Indicative Programmes (NIP) 2002-2004 and 2005-2006 (which awarded €80 and €50 million respectively) also excluded political reform, and focused instead on support for the implementation of the Association Agreement, social and rural integrated development, support for environmental protection, cooperation in higher education, support for knowledge economy, and strengthening the competitiveness of the private sector. Although the 2005-2006 NIP mentions human rights and democratisation as a priority for EU policy in Lebanon, it does not allocate any funds for this goal. The priority defined as "supporting the implementation of the Association Agreement" includes sections on the "rule of law" and "support for human rights, civil society, and democracy" but these are comprised of short vaguely worded paragraphs that pledge support for "better protection of fundamental rights and civil liberties" without providing any details of what this entails.

The European Neighbourhood Policy (ENP), developed in 2004, places a more explicit emphasis on democracy and human rights compared with its predecessor Euro-Mediterranean Partnership Agreement. In line with its aims to differentiate more between southern Mediterranean states, the ENP introduced a more targeted approach to political reform in Lebanon. The financial support for the European Neighbourhood Policy has been provided for through a European Neighbourhood and Partnership Instrument (ENPI), which replaced the former programmes of EU funding in Lebanon (such as MEDA).

The central element of the ENP is the bilateral Action Plan, which lays out the strategic objectives of cooperation between Lebanon and the EU. The Action Plan, adopted on 19 January 2007, includes the following priorities related to democratisation and human rights: support ongoing efforts to improve good governance and transparency in line with relevant UN conventions; implement plans for decentralisation and local government reform; strengthen measures against corruption through the effective implementation of a national anti-corruption strategy; reform of the electoral law; continue to develop an independent and impartial judiciary; establish a comprehensive human rights strategy, including protection of rights of minorities, marginalised populations and non-citizens; support freedom of media and freedom of expression; support freedom of assembly and association; development of civil society; and promotion and protection of the rights of women and children.³³

³³ http://ec.europa.eu/world/enp/pdf/lebanon_enp_ap_final_en.pdf.

The 2007-2010 NIP is the first document of its kind to allocate funds to political reform in Lebanon. Of the €22 million it allocates for this purpose (11.76 per cent of the total allocation of €187 million), €10 million are destined to judicial and prison reform and €12 million to political reform.³⁴ The judicial component involves the improvement of transparency and the effectiveness of the judiciary, the improvement of prison detention conditions, and cooperation with the Lebanese government on security related issues. The political reform component includes multiple objectives: reforming the electoral law and electoral framework; supporting the preparation and implementation of the National Action Plan on respect for human rights; reforming the administrative framework to promote freedom of expression, association and assembly and independence of the media; supporting women's participation in political, economic and social life; promoting a child welfare strategy; strengthening measures against corruption through national anti-corruption strategy; and strengthening the capacity of civil society organisations to implement reforms and support initiatives that promote national identity and social inclusion.

The ENP has attempted to incorporate more monitoring mechanisms and benchmarks for its objectives. Firstly, progress reports evaluate the implementation of the Action Plan and, more precisely, the NIP. The first progress report for Lebanon (published on 3 April 2008) states that the political context has not yet allowed Action Plan objectives to be meaningfully addressed.³⁵ Secondly, sub-committees have been created to deal with the sectors contained in the Action Plan. A sub-committee on human rights, democracy, and governance has been established in Lebanon, but the progress report only cites two activities by the subcommittee. In April 2007 the subcommittee agreed to promote a public debate on the basis of the work of Lebanon's National Commission on Electoral Law Reform but no progress was possible in view of the political standoff. The subcommittee also renewed its pledge to implement the legislation that provides for a gradual transfer of prison management from the Ministry of Interior to the Ministry of Justice.

The NIP also integrates the concept of positive political conditionality by including the promise of more aid being granted in response to reform promises, namely through a "governance facility" that will deliver increased financial assistance to better-performing partners.³⁶

³⁴ Two other pillars are "support for social and economic reform" which receive €86 million (45.99% of total) and "support for reconstruction and recovery" which receives €79 million (42.25% of total). The last pillar reflects the change in the EU's cooperation objectives in the aftermath of the 2006 war. The European Commission boosted its contribution to Lebanon to €107 million for the year 2006 at that international donor conference that took place in Stockholm on 31 August 2006 to address immediate reconstruction needs of Lebanon.

³⁵ Communication from the Commission to the Council and the European Parliament, "Implementation of the European Neighbourhood Policy in 2007", Sectoral progress report, Brussels, 3 April 2008.

³⁶ The Governance Facility builds on the concept of a Democracy Facility that was launched in the 2003 Commission Communication on "Reinvigorating EU actions on Human Rights and Democracy with the Mediterranean Partners". This initiative was introduced for Mediterranean countries in 2006 and Morocco benefited from an increase in its annual allocation from the last year of the MEDA budget.

The NIP also calls for the creation of a Lebanese national action plan on human rights and democracy, as proposed in the 2003 Commission Communication on “Reinvigorating EU actions on Human Rights and Democracy with the Mediterranean Partners.” This plan—which is separate from the general Action Plan—would include a list of specific action points (which have not yet been indicated) as well as measurable benchmarks of performance with a clear timeline. The Lebanese parliament stated its intention of developing such a plan by the end of 2006 and of attempting to get it approved by the government in 2007, but these activities have been severely constrained by the political crisis.³⁷

In contrast to the ENPI, which only involves government-to-government cooperation, the European Initiative on Democracy and Human Rights (EIDHR) cooperates directly with Lebanese civil society and is able to fund NGOs without the Lebanese government’s consent. Between 2002 and 2006, the EIDHR financial allocation for micro projects (managed by the EU Delegation in Lebanon) totalled € 1,325,000, with a maximum of € 100,000 per project. Micro projects focused on: training youth in human rights issues, protecting the rights of migrant workers and refugees, and promoting children’s rights. The EIDHR has also funded macro projects (managed by the commission in Brussels) dealing with torture prevention and monitoring (€153,150), rehabilitation for torture victims (€ 348,693), and assistance for victims of torture (€642,000). The EIDHR also funded (with € 1.9 million) an electoral observation mission to monitor the parliamentary elections of June 2005. This was the first time international observers monitored a Lebanese election.

The most recent deliberations over EU policy in the Mediterranean reveal the continuing hurdles in the ability and willingness of the EU to promote democracy in its neighbourhood. The initiative of Nicolas Sarkozy, the French President, to launch a “Union of the Mediterranean” reveals that while many European leaders recognise that the Barcelona process has failed to deliver on its promises, a serious and much-needed introspective re-evaluation of the framework is not imminent. In addition, this most recent impulse to revitalise Euro-Mediterranean relations has moved the dialogue even further from the issue of political reform.

Sarkozy’s “Union of the Mediterranean” proposal—first mentioned in his election night press conference on 6 May 2007—seems to be based on his concerns about the marginalisation of the Mediterranean in the world economy, the inadequacies of the EU’s Mediterranean policy, and the erosion of France’s role as a geopolitical actor in the Mediterranean. Many EU member states feared that the scheme—which excluded non-Mediterranean EU countries—was an attempt to revive French foreign policy at the expense of the framework of the Barcelona

³⁷ Commission Staff Working Document Accompanying the Communication from the Commission to the Council and the European Parliament, “Implementation of the European Neighbourhood Policy in 2007” Progress Report Lebanon, Brussels, 3 April 2008.

Process.³⁸ This opposition, particularly from Germany, ultimately transformed the original plan into what is currently being presented as an “upgrading” of the Barcelona Process.³⁹

As a result of the rough evolution of this initiative, the details—particularly how it will fit into the framework of the existing Euro-Mediterranean agreements—remain murky. The European Commission proposed some broad guidelines in May 2008, but the official summit on 13 July 2008 in Paris under the French EU presidency has postponed hammering out the institutional and logistical details until a meeting of the foreign affairs council in November 2008. What is clear after the July summit, however, is that the “upgrading” that is being envisioned does not include re-examining the issue of political reform.

The new initiative identifies the shortcomings of the Barcelona process as “the perceived lack of co-ownership by Mediterranean partners, the lack of institutional balance between the weight of the EU on one side and the Mediterranean partners on the other, and the weak visibility and the perception by citizens that little is done to tackle their daily problems and their real needs”.⁴⁰ In response, the new initiative will try to enhance co-ownership, primarily through the co-presidency of the UMed by an EU member and a partner country. It will also “make multilateral relations more concrete and visible through additional regional and sub-regional projects relevant to the citizens of the region”.⁴¹ So far, the projects presented at the inaugural summit are very technical projects focused on energy and energy security, environment, civil protection and transport.⁴² The joint declaration at the summit of the Union for the Mediterranean includes only a brief mention of the commitment of governments to strengthen democracy and political pluralism.⁴³

³⁸ At a meeting of the heads of state and governments of France, Italy and Spain in Rome on 20 December 2007, the initiative was turned into a “Union for the Mediterranean” making room for some form of participation of the commission and, eventually, of non-Mediterranean EU countries eager to play a role in the region. At a meeting in Hanover on 3 March 2008, Angela Merkel, the German Chancellor’s opposition to Sarkozy’s plan led to the full inclusion of the EU’s 27 member states.

³⁹ According to the joint declaration at the summit to launch the new initiative: “The Barcelona Declaration, its goals and its cooperation areas remain valid and its three chapters of cooperation (Political Dialogue, Economic Cooperation and Free Trade, and Human, Social and Cultural Dialogue) will continue to remain central in Euro-Mediterranean relations. The Five-Year Work Programme adopted by the 10th Anniversary Euro-Mediterranean Summit held in Barcelona in 2005 (including the fourth chapter of cooperation on “Migration, Social Integration, Justice and Security” introduced at that stage) and the conclusions of all ministerial meetings will remain in force.” Full text: <http://www.ambafrance-uk.org/Summit-of-the-Union-for-the.html>

⁴⁰ Communication from the Commission to the European Parliament and the Council, “Barcelona Process: Union for the Mediterranean,” Brussels COM (2008) 319/3.

⁴¹ *Ibid.*

⁴² The projects include: an agreed plan for de-pollution of the Mediterranean; new sea routes and upgraded port facilities; a new road link for the Maghreb Arab states, Mauritania, Morocco, Algeria, Tunisia and Libya; a joint Civil Protection programme on prevention, preparation, and response to disasters; the creation of a Mediterranean Solar Plan to tap into alternative sources of energy; the establishment of a Euro-Mediterranean University; and a Mediterranean Business Development Initiative. Financial resources are expected to come from the private sector; international financial institutions and bilateral cooperation and contributions from EU member states and Mediterranean partners.

⁴³ The sixth paragraph of the joint declaration states: “Heads of state and government underline their commitment to strengthen democracy and political pluralism by the expansion of participation in political life and the embracing of all human rights and fundamental freedoms. They also affirm their ambition to build a common future based on the full respect of democratic principles, human rights and fundamental freedoms, as enshrined in international human rights law, such as the promotion of economic, social, cultural, civil and political rights, strengthening the role of women in society, the respect of minorities, the fight against racism and xenophobia and the advancement of cultural dialogue and mutual understanding.”

Conclusions

The challenges to democratisation in Lebanon are colossal. In addition to entrenched domestic interests in the undemocratic system, the obstacles include an unreceptive regional environment characterised by seemingly intractable conflicts. Ultimately, EU policy is not a crucial factor in these dynamics. However, the EU can still serve as a positive force for democratisation. In order to fulfil this role, EU policy must address both the structural domestic roots of the Lebanese predicament as well as external factors. This requires a coherent policy that coordinates between the different European tools in Lebanon: diplomatic mediation, political dialogue with Lebanese leaders, and democracy assistance. The following recommendations are intended as guiding principles for EU engagement in Lebanon:

- In the absence of a modicum of stability in Lebanon, political reform is a moot point. Thus, despite the limits to its ability to bring about a breakthrough in the regional context (as expounded in this paper), the EU should continue to pursue its conflict reduction role in Lebanon to ensure that the deep divisions that exist among political forces continue to be managed through institutional politics, and do not degenerate into renewed confessional and sectarian anxieties and conflict. In this context, the EU can:
 - support a consensual debate in Lebanon that focuses on developing a national defence strategy. In his inaugural speech, President Sleiman mentioned the formulation of such a strategy as a priority for his term. Such a debate would address:
 - security sector reform,⁴⁴
 - Hizbullah's weapons,
 - the international tribunal,
 - the need for border demarcation with Syria,
 - the threat posed by Sunni militant forces within Lebanon targeting Lebanese security forces and international peacekeepers.
 - continue its dialogue with Hizbullah. In that context, the EU should continue to resist US and Israeli pressure to include the group on its terrorism list.

⁴⁴Lebanon's various security forces are politicised and divided into disparate elements that do not respond to a common higher civilian authority. There are no institutionalised relations among the different services or clearly delineated responsibilities.

In 2006, 404 170 Palestinian refugees were registered with the UN Relief and Works Agency (UNRWA), with about half living in 12 official refugee camps. In addition, an estimated 45,000 refugees are not registered with UNRWA. Palestinian refugees in Lebanon have very limited access to the government's public health or educational facilities, and no access to public social services. The camps suffer from inadequate infrastructure, overcrowding, poverty, and an unemployment rate of 40 percent (Palestinian refugees are prohibited from working in seventy trades and professions). In addition to the humanitarian challenge, the camps pose grave security challenges for Lebanon. The political and security situation inside the camps lies outside the domain of the Lebanese security forces. In May 2007, a radical Islamist group, Fatah al-Islam, based in a Palestinian refugee camp in north Lebanon attacked Lebanese army posts launching a fierce battle in the camps.

- pressure Syria—through diplomatic engagement and negotiations on the EU-Syria association agreement—to release Lebanese prisoners in Syrian jails and fully normalise diplomatic relations with Lebanon, building on the recent announcement in Paris that the countries will open embassies in each other's capitals.
 - search for diplomatic openings to promote a Syria-Israel and Lebanon-Israel comprehensive peace agreement.
 - utilise its involvement in UNIFIL, not only to prevent violent conflict on Lebanon's southern border; but also to aid with the long-needed reconstruction of southern Lebanon.
 - continue to provide humanitarian assistance to the Palestinian refugee camps in Lebanon.⁴⁵
- While acknowledging that there are no short-term prospects for a secular non-confessional and non-sectarian Lebanon, the EU must push for reforms that address the key flaws in the confessional system. The EU's political reform programmes should target the sensitive but core issues of political representation and institutional power:
 - The confessional and sectarian system can only be challenged through the creation of institutions and processes that allow multiple socio-economic interests to cut across sectarian ones. The EU should support and foster movements and activities which are not limited or defined by sectarian interests. While technical assistance to different Lebanese institutions is helpful, it does not target the real causes of the deficiencies in their capacity and accountability.
 - Reform of the electoral system is a crucial area where some progress towards the eventual breakdown of the confessional and sectarian pressure on the electoral process could be made. While reform must be primarily a Lebanese process, the EU can assert its support for a reform of the electoral framework on the basis of the proposals by the independent National Electoral Commission formed in August 2005. It can also—at the request of the Lebanese parliament—help in election observer missions.

⁴⁵ In 2006, 404 170 Palestinian refugees were registered with the UN Relief and Works Agency (UNRWA), with about half living in 12 official refugee camps. In addition, an estimated 45,000 refugees are not registered with UNRWA. Palestinian refugees in Lebanon have very limited access to the government's public health or educational facilities, and no access to public social services. The camps suffer from inadequate infrastructure, overcrowding, poverty, and an unemployment rate of 40 percent (Palestinian refugees are prohibited from working in seventy trades and professions). In addition to the humanitarian challenge, the camps pose grave security challenges for Lebanon. The political and security situation inside the camps lies outside the domain of the Lebanese security forces. In May 2007, a radical Islamist group, Fatah al-Islam, based in a Palestinian refugee camp in north Lebanon attacked Lebanese army posts launching a fierce battle in the camps.

- If the EU is truly committed to political reform in Lebanon, the levels of aid allocated to political reform by the European Commission as well as member states to Lebanon should reflect this commitment.
- The EU's involvement in Lebanon should develop more institutionalised and systematic coordination on reform aid.
 - Member states should temper disconnects between different internal bodies involved in aid distribution. Some member states have taken steps in this direction, but so far these efforts have addressed security and development issues, not political reform. For example, the United Kingdom's Stabilization Unit (previously known as the Post Conflict Reconstruction Unit) has institutionalised liaison between the foreign, defence, and development departments in the context of responding to crisis situations. The unit, which was engaged in Lebanon during and after the conflict of summer 2006, coordinated British bilateral initiatives and other multilateral programmes for reconstruction and worked to develop options for longer term and more sustained support aimed at reforming Lebanon's security sector. The Italian and Spanish embassies in Beirut are also trying to promote synergy between UNIFIL, development NGOs, and the cooperation offices. These efforts should be encouraged and similar ones developed in the context of a political reform strategy.
 - While European embassies in Lebanon coordinate detailed funding issues and share information, this has not been matched by greater coordination in Brussels or national capitals over some of the bigger conceptual issues involved in reform strategies. Not until 2000 did commission officials begin preparing "country papers" incorporating information on member states' bilateral efforts as well as on commission programmes. Local coordination with member states now takes place in the framework of the annual work plans and is conducted through regular and thematic meetings.
- The EU should abandon its misguided tendency to assume that political change will follow naturally from economic reform. The EU's Association Agreements with Arab countries express an underlying logic that economic liberalisation—and particularly privatisation—necessary to meet the trade and economic reform requirements of the agreements will create new economic power centres that will, in turn, press for democratic political

change. The experiences of countries in Eastern Europe, Central Asia, and elsewhere in the Middle East have shown that poorly run privatisation programmes can increase rather than decrease patronage and corruption. A privatisation programme in the context of Lebanon's sectarian system would consolidate networks of sectarian patronage, because Lebanon's political leaders would be acting as gatekeepers to free trade agreement-linked reforms. Furthermore, Lebanon lacks the tools to regulate private industries and prevent privatisation from becoming nothing more than an exchange of state corruption for private corruption.

- There is a need for more detailed benchmarks on the EU's political reform priorities and expected commitments to match the existing framework for economic and social priorities. There have been some attempts to devise mechanisms for a deeper and more operational focus for political dialogue on human rights, particularly through the call for a National Action Plan on Human Rights and Democracy. This effort should be completed, encouraged, and emulated.



Chapter 5

Ukraine

<Iryna Solonenko and Balazs Jarabik >

Despite the formal transition of the Orange Revolution in 2004, Ukraine has failed to implement the reforms necessary to ensure the smooth functioning of a democratic system. The impact of EU policy on Ukraine seems still to be overshadowed by Russia's confrontational stance. While a 'Russia first' policy still exists on the part of several member states, the introduction of the European Neighbourhood Policy (ENP) has allowed the EU-Ukraine relationship to move from being a partnership towards integration. Since the 2004 Orange Revolution, the EU has become a more visible and engaged external actor in Ukraine and the model towards which the major political forces and Ukrainian society aspire. But, with the EU unable to make an unequivocal strategic commitment to Ukraine, Russia retains strong leverage in the country to potentially destabilising effect. The widespread opinion is that the 2010 presidential elections might see Russia influencing events more decisively than the EU. It remains to be seen whether the EU is ready to recognise the potential threat to its own security which an unstable Ukraine would inevitably present, and pursue in consequence a more committed policy.

The year 2004 marked a turning point in the relationship between the EU and Ukraine. In contrast to the previous policy of neglect, the EU responded to the new situation in Ukraine from 2004 onwards with policy instruments that resembled those of enlargement. Conditionality, albeit weak, was introduced: several incentives such as the prospect of a free trade area and visa facilitation were put on the table. In addition, new socialisation channels to Ukraine have been opened up and financial assistance has increased. Importantly, unlike the 1990s, democracy became central to the EU's Ukraine agenda.

However, with its policy falling short of offering a membership perspective, the EU will be hard pressed to succeed in promoting rapid and targeted reforms. As events since the Orange Revolution have shown, the new EU policy has not been translated into deeper democratic reforms in Ukraine itself. To succeed in Ukraine, the EU needs to focus on a few incentives that are sufficiently attractive to stimulate political consensus and relevant reforms. If the promise of membership is not in the offing, a visa-free regime along with a reworking and enhancement of offers already on the table could to some extent serve the same

purpose. In tandem to this, the already existing socialisation channels ought to be strengthened and organisations from civil society, the natural partners for an Europeanisation strategy, involved in a more meaningful way. Such advances are rendered even more urgent in the light of the collapse of Ukraine's government in September 2008.

The state of democracy and human rights

Despite improvements arising from the 2004 Orange Revolution, consolidation of Ukraine's democracy has proved elusive. In the aftermath of the Orange Revolution, Ukraine enjoyed free and fair elections, open political competition, freedom of assembly and expression and increased freedom of the press. But in 2007, Freedom House still classified Ukraine as a 'hybrid regime'. Shortcomings remain with respect to the stability of democratic institutions, judicial independence, good governance, the ability of political elites to find common ground and build consensus and the development of civil society and human rights guarantees.

Since the Orange Revolution, Ukraine's democratic status has been to some extent jeopardised by the power games of three key political actors. Viktor Yanukovich with his Party of Regions, which enjoys 175 seats in the Parliament, led the opposition until recently. He was prime minister during the final Kuchma years, but lost the 2004 presidential elections to Viktor Yushchenko by a narrow margin. Following the 2006 parliamentary elections, he was made prime minister again, but his term in office was cut short by the calling of early parliamentary elections in 2007 by President Yushchenko. Yushchenko, besides being the face of the Orange Revolution, gained fame as the first reform-minded prime minister in Ukraine in 2000 and was the leader of the democratic opposition to the Kuchma regime from 2001 onwards. His presidency, however, has been dogged by political instability and his popular support rating dropped from a record high in early 2005 to much more modest figures subsequently. Yulia Tymoshenko, Yushchenko's long-standing Orange ally, was appointed prime minister by the coalition between Yushchenko's Our Ukraine - People's Self Defence Block and the Yulia Tymoshenko Block that together account for 228 seats in the Parliament. Their marriage of convenience was not always easy: Yushchenko sacked Tymoshenko in 2005 after only 7 months, and subsequently their parties were unable to build a coalition following the 2006 elections despite forming a majority. The most recent Orange coalition collapsed in September 2008 after less than a year in office. As all three leaders are expected to run in what will be highly competitive presidential elections scheduled for early 2010, scope for reform is rather limited.

Probably the biggest problem for Ukrainian democratisation is still the lack of universally accepted, clear and stable ground rules and a weak institutional framework. The separation of powers is still compromised. The Constitutional amendments passed in the aftermath of the Orange

Revolution transferred some presidential powers to parliament without clearly demarcating which powers belonged to which branch. The president's constitutional powers were further limited by the controversial Cabinet of Ministers law adopted in February 2007. This provoked disagreement on the balance of powers between the president and the prime minister, resulting in conflict between the two following the 2006 parliamentary elections. This tension reached a crescendo during the political crisis of April 2007¹ and led to early elections being called in September 2007. In May 2008, the new Orange coalition amended the Cabinet of Ministers law to return constitutional powers to the president, but joint voting by the Party of Regions and the BYT in September 2008 introduced fresh amendments that limited the powers of the president once again. This effectively led to the latest collapse of the Orange coalition.

A weak and corrupt judiciary and a distinct lack of good governance constitute further problems for Ukraine's democratisation process. Large industrial-economic groups prefer to secure their economic interests via links with politicians, not by empowering the judiciary as an impartial arbiter. The fact that the Ukrainian parliament is home to some of the richest Ukrainians does not encourage the independence of the judiciary, but instead makes it a tool in a daily political and economic dog-fight. Similarly, the public sector is highly politicised and subject to far-reaching patronage. This results in a low institutional capacity and bad governance in general throughout Ukraine, as is confirmed by various international indices.²

Such problems are rooted in the poor quality of the political elite and the weak democratic political culture which is a legacy of the communist past. The inferior quality of the political elites induces the process of 'institutional engineering',³ which is a crucial part of Ukraine's state-building and democratisation agenda. The absence of stable institutions leaves political actors with too much room for manoeuvre and the ongoing interpretation of the political ground rules creates an unstable political environment, which in turn encourages the political elite of the day to focus on short-term gains rather than the country's long-term strategic objectives. This lack of respect for the system's democratic base-lines or institutions leads to a situation in which laws, the judiciary, law-enforcement agencies and even the armed forces become instruments in political struggle, as the 2007 political crisis demonstrated. Ukrainian political elites lack the ability to find consensus; politics is perceived as a 'zero-sum' game and a common disposition to create win-win situations is absent.⁴

¹ The 2007 political crisis was provoked by the high-scale corruption in the parliament, whereby the Party of Regions attempted to bring the constitutional majority of MPs under its control thus allowing amendments to the Constitution. Given this, President Yushchenko issued the decree dismissing parliament in April 2007, which, however, was not recognised by parliament. The two-month deadlock which ensued affected all branches of power; including the judiciary, was finally resolved by the agreement to carry out early parliamentary elections in September 2007

² According to the Global Competitiveness Report of the World Economic Forum (2007), Ukraine ranks 86 out of 125 countries in terms of good governance.

³ von Beyme, K., 'Institutional Engineering and Transition to Democracy', in Zielonka, J. (ed.), *Democratic Consolidation in Eastern Europe*. Volume 1. *Institutional Engineering* (Oxford: Oxford University Press, 2001), pp. 3-24.

⁴ See more on this in Solonenko, I., 'The EU's 'Transformative Power' with Respect to Ukraine: the Case of Ukraine's Democratisation', European Research Working Paper Series No 21, European Research Institute, the University of Birmingham, 2007, pp. 36-43. http://www.eri.bham.ac.uk/research/working_papers/workingpapers.htm

Despite the vibrant social activism that played such a crucial role in the Orange Revolution, civil society remains relatively weak in Ukraine. Although non-governmental organisations (NGOs) in Ukraine are numerous, including those at the grass-root level, their ability to set and influence the political agenda is still considered weak. Instead, the big industrial-economic groups with powerful tentacles into politics and parliament retain control over policy. NGOs are still dependent on Western support and in any case lack a firm regulatory environment which would encourage domestic funding.

Contrasting interests

Ukraine is a good example of a country where security and economic considerations overshadow EU democracy efforts. Certainly, the EU's policy towards Ukraine throughout the 1990s was anything but geared to promoting democracy. Ukraine possessed the second largest arsenal of Soviet nuclear arms, had a multi-ethnic social structure and thus a potential for social unrest, but at the same time almost no experience of statehood. Ukraine was not necessarily destined to survive as an independent country and preserve its territorial integrity. In consequence, the EU's Ukrainian agenda was either security driven or constituted a part of EU policy towards Russia. That perception changed with the confluence of several factors in and around 2004. Firstly, Ukraine became a direct neighbour of the EU. Secondly, the Orange Revolution changed international perceptions of Ukraine and put it on the map for Europeans; it emerged from that crisis as a country with the potential successfully to embrace democracy. Thirdly, the European Neighbourhood Policy was launched, which created a framework for a stronger democracy agenda.

Even if the EU's policy towards Ukraine since 2004 has become more value-driven (mostly due to the sense of identity and experience the EU has acquired in its eastward enlargement process),⁵ self-interest remains at the centre of its policy. The reason the ENP was launched is primarily to do with the EU's own security considerations. In this sense, it can be argued that the democratisation agenda included in the ENP is part of an over-arching security agenda.

In terms of intervention factors, the role Russia plays has to be considered from two perspectives. Firstly, Russian considerations still play a role in the EU's policy towards Ukraine. This is not to say that the EU's Ukraine policy is subordinated to its Russian policy, as was the case throughout 1990s. But the EU's traditional policy of putting Russia first does have a knock-on effect in its policy to Ukraine. For example, what the EU has offered Ukraine under

⁵Sedelmeier, U., *EU Enlargement, Identity and the Analysis of European Foreign Policy: Identity Formation through Policy Practice* (European University Institute, Robert Schuman Centre for Advanced Studies, 2003).

the ENP had already been offered to Russia under the four common spaces. Given the state of democracy and human rights in Russia, such a policy might send the wrong signals to Ukraine about the EU's double standards and increase the sense of frustration on the membership issue.

Moreover, due to concerns related to securing its energy supply (70 per cent of Russian energy exports to the EU pass through Ukraine), the EU overlooked Russia's use of energy as a political tool in Ukraine for too long. By refraining from interfering in Russia-Ukraine energy relations⁶ the EU has allowed the Russian factor to remain prominent in Ukrainian politics, often to the benefit of political forces that do not favour democratic reforms. Where differentiation in the EU's policy towards Ukraine and Russia has emerged over the years, this is due to Russia's rejection of the ENP rather than the EU's own strategy. To the EU's credit, Russia's unwillingness to form part of the ENP has not precluded the EU from moving forward with Ukraine.

Secondly, Russia has made it clear that increasing its influence in its neighbourhood is one of its vital national interests. Events in Georgia have only confirmed this. Whilst Russia has held back from public endorsement of certain political forces since the Orange Revolution, it has redoubled its efforts to strengthen its direct economic interests in Ukraine and widen its influence throughout the whole political elite. Besides direct economic influence, Russia has a number of other ways of exerting leverage in Ukraine, such as the strong presence of its space programme in Ukraine, the fact that the overwhelming majority of Ukrainians speak Russian, and the convenience offered when Ukrainians travel to Russia, free of the need to carry a passport (quite unlike the Ukrainian experience with western neighbours). Also worth mentioning is the situation in the Crimea where Russia has been issuing passports to Ukrainians and providing financial support to various pro-Russian groups.⁷ The stationing of the Russian Black Sea Fleet in Sevastopol should also not be overlooked, an issue with the potential to mobilise the local Russian community if Moscow requires.

The EU, for its part, has become preoccupied with domestic developments in Ukraine, focusing more on the reform process. This policy, coupled with a new domestic situation in Ukraine following the Orange Revolution, made the EU a much more visible external actor with both former Prime Minister Yanukovich and President Yushchenko rushing to Brussels in the wake of the 2007 political crisis. Since 2005, the EU-Ukraine cooperation agenda has

⁶In January 2006 when Russia cut off energy supply to Ukraine for a few days in the middle of a cold winter; the EU refrained from interfering. Soon afterwards, the energy prices were raised from \$50 in 2004 to \$95. In 2007 the price was raised to \$130. Yet, the EU seems to be changing this approach. In 2007, as Russia suddenly raised the issue of Ukraine's energy debt following the 2007 early elections, the EU made several statements expressing concern and offered its mediation. See Solonenko, I., 'Ukraine's 2007 Parliamentary Elections: Implications for the Foreign Policy and International Perception', Heinrich Böll Stiftung, October 2007. http://www.boell.pl/download_pl/Parliamentary_elections_Iryna_Solonenko.pdf.

⁷ East Week by Centre for Eastern Studies. Issue No 129. <http://osw.waw.pl/en/epub/ew/2008/080611/01.htm>.

intensified with such issues as the negotiation of the association agreement (including deep free trade) and visa facilitation high on the agenda. The EU possesses a number of instruments aimed at implementing reforms in the country, although these do not go beyond the competence of more than a few key ministries, mid-level bureaucracy and civil society.

Two distinctive neighbourhood policies are therefore at play, the Russian version which aims to increase control over Ukraine, and the EU's version which promotes democratic reforms and thereby the security of its own borders. Russia's weakness in comparison to the EU is that Moscow has failed to offer Ukraine a positive agenda. Yet the EU's unwillingness to offer a membership perspective to Ukraine seriously limits its leverage in the country too, especially given Ukraine's perception of any alternative arrangement to membership as lacking in credibility. It remains to be seen which of these two agendas employed by Ukraine's two neighbours will prevail.

European democracy and human rights policies

Throughout the 1990s, the EU commitment to democracy was relatively timid. The 1999 EU Common Strategy on Ukraine gave only a passing mention to support for Ukraine's democratic transition among other equally important objectives. The Partnership and Cooperation Agreement (PCA), which entered into force in 1998, touched upon issues pertaining to democracy only superficially. The unimportance of democracy-related issues is also evident both from the Common Statements on the annual EU-Ukraine Summits and Conclusions of the annual EU-Ukraine Cooperation Council meetings.

It was at the turn of the millennium when numerous statements and declarations about democracy in Ukraine began to be heard. These came about as a response to developments in Ukraine itself. Kuchma's unsuccessful efforts to pass amendments to the Constitution to further strengthen his already extensive powers, the 'Kuchma-gate' affair with tapes released pointing to his involvement in the murder of the Ukrainian journalist Gongadze, and US evidence of Kuchma's involvement in arms deals with Iraq were all incidents that sent alarm bells ringing in the EU. Imminent EU enlargement, which would make Ukraine its direct neighbour, added to these concerns.

During the Orange Revolution, the EU quickly and unanimously rejected the official second round election results, expressed support for the popular protest and condemned official fraud and vote-rigging. This diplomatic engagement along with personal initiatives by Javier Solana and presidents Valdas Adamkus of Lithuania and Aleksander Kwasniewski of Poland was instrumental in the eventually peaceful and democratic resolution of the crisis.

The ENP puts democracy high on the EU agenda. But ENP Action Plans are not legally

binding and are somewhat vague; implementation consequently depends on the willingness of a partner country to comply. The post Orange Revolution Ukrainian government, although not happy with the ENP per se, took the implementation of the Action Plan seriously. In particular, the roadmaps (or 'Scoreboards') adopted by the Ukrainian government each spring to implement the EU-Ukraine Action Plan list numerous steps to be taken each year in order to strengthen the stability and effectiveness of institutions guaranteeing democracy, speed up judicial reforms, ensure effectiveness in the fight against corruption and strengthen freedom of the press and of expression.

This meant that when the Orange Revolution took place, the ENP was already at hand to provide the framework and tools for deeper involvement. In its response to the Orange Revolution the EU slightly upgraded the EU-Ukraine Action Plan with its so-called '10-point plan,' offering Ukraine new incentives such as EU support for its WTO accession aspirations, a free trade area, visa facilitation, increased financial assistance, support for people-to-people links and loans from the European Investment Bank.

Most recently, Ukraine has also been offered an Association Agreement and a visa dialogue was launched (see below). These incentives, however, have not proven sufficient to encourage political consensus and the political will required for the reform of the constitution and judiciary. The EU's policy has contributed to strengthening the pro-European consensus among the political elite, but without implications for the reform process. It was while the Association Agreement deal was being finalised that the governing coalition fell, unable to commit to political reforms.

The EU is not a uniform actor and clear differences between EU institutions over democracy promotion are apparent. The European Parliament, more than any other EU institution, seems to have been the driving force behind putting democracy-related issues high on the agenda. Importantly, in July 2007 it passed its recommendation on the new agreement with Ukraine which calls for a number of incentives to be offered to Ukraine (an EU membership prospect, visa-free travel, increased financial assistance and more opportunities for people-to-people contacts), while arguing for stronger conditionality, in particular, linking the successful conclusion of negotiations on the new agreement to an improved political situation in Ukraine.⁸

Differences are also evident between member states. Those member states that favour EU enlargement and Ukraine's future accession are generally in favour of a stronger involvement on the part of the EU, with Poland, Slovakia, the Czech Republic and the three Baltic states

⁸ European Parliament, Negotiation Mandate: Enhanced EC-Ukraine Agreement. European Parliament Recommendation of 12 July 2007 to the Council on a Negotiation Mandate For a New Enhanced Agreement Between the European Community and its Member States of the One Part and Ukraine of the Other Part (2007/2015(INI)).
<http://www.europarl.europa.eu/sides/getDoc.do?Type=TA&Reference=P6-TA-2007-0355&language=EN>.

being the most active, as well as the Scandinavian member states and the UK. Poland and Sweden have presented their so-called Eastern Partnership proposal with the aim of deepening bilateral cooperation between the EU and its eastern neighbours, mostly Ukraine, and creating a permanent forum for multilateral cooperation.

The Benelux countries and South European member states - with France's position being decisive - do not favour further enlargement and are much less concerned about Ukraine. It ought to be noted, however, that the French position changed following the election of president Sarkozy and in the run up to Paris holding the EU presidency. In February 2008, France published a non-paper with the offer that the new agreement with Ukraine take the form of an Association Agreement, envisaging an ambitious and privileged partnership between both sides. The German position seems to be finely balanced: it is involved in developments in Ukraine due to its traditional interest in Eastern Europe, yet is not ready to go as far as enlargement.

The different opinions on how the EU should have reacted to the Orange Revolution show the difficulties inherent in EU policy making towards Ukraine. While Poland and Lithuania lobbied for renegotiation of the Action Plan (adopted under Kuchma) and an offer of membership perspective,⁹ a group of countries led by France opposed any special treatment which would single Ukraine out from other ENP countries. Thus, the EU's reaction to the Orange Revolution (a 10-point plan) reflected the lowest common denominator position in Brussels.

Today the situation is somewhat different mainly due to the shift in the French position. As said, during the EU-Ukraine Summit that took place on 9 September 2008 under the French presidency, it was decided that the new agreement between the EU and Ukraine would be an Association Agreement, "which leaves the way open for further progressive developments in EU-Ukraine relations".¹⁰ However Ukraine was still not offered a membership prospect, as many had hoped, nor was it offered a visa-free roadmap, but instead a visa dialogue with the long-term perspective of establishing a visa-free regime. (Some media outlets argued that some member states were close to offering a membership prospect, but the political crisis that broke out on the eve of the summit buried these hopes). The ultimate contents of the new agreement and any possible added value the Eastern Partnership will serve as another test as to how far the EU is ready to go in its support of Ukraine's fragile democracy.

⁹ Roth, M., "European Decision-Making on the EU-Ukraine Action Plan after the Orange Revolution: the Role of the New Member States", in Kosior, K. and Jurkowska, A. (eds.), *Beyond the Borders. Ukraine and the European Neighbourhood Policy* (Rzeszów: University of IT and Management, 2007), pp. 45-68.

¹⁰ EU-Ukraine Summit, Joint Declaration on the EU-Ukraine Association Agreement, Paris, 9 September 2008.

http://www.ue2008.fr/webdav/site/PFUE/shared/import/0909_UE_Ukraine/09.09_UE-Ukraine_association_agreement_EN.pdf

Conditionality

There was no EU conditionality in relation to Ukraine until 2005. It was the '10-point plan' of January 2005, complementing the EU-Ukraine Action Plan, that offered specific incentives linked to reforms. For instance, the green-light for negotiations on the new enhanced agreement between the EU and Ukraine was made conditional on free and fair parliamentary elections in March 2006 being held. Likewise, negotiations of the free trade provisions of the new enhanced agreement were tied to Ukraine's accession to the World Trade Organisation. Ukraine was also awarded with the first allocation (of 22 million €) from the so-called Governance Facility.

However, the ENP and more specifically the EU-Ukraine Action Plan failed to introduce clear benchmarks. Compared to the enlargement process, where policy objectives are both linked to financial assistance and have short- and medium-term perspectives, the priorities for Ukraine are conceived as a 'shopping list'¹¹ with no time frame and only a vague link to EU funds. This is also the case with monitoring; the monitoring reports on the ENP countries published by the Commission in December 2006 were less detailed and critical than the progress reports issued under enlargement policy. The follow-up reports published in April 2008 were more informed and detailed, but still appeared to be rather mild in their criticism, at least where Ukraine was concerned. Now monitoring is to become a regular (annual) exercise, with the next report expected in April 2009.

The EU has not deployed negative conditionality. The Kuchma regime was gradually isolated, but the EU never considered withdrawing technical assistance, even though TACIS regulations allowed for this to happen. There was no serious discussion within the EU over whether to freeze negotiations on the new agreement during the 2007 political crisis. On the contrary, the negotiation process was in no way interrupted, although the European Parliament recommended there be more of a relation between Ukraine's political performance and the negotiation process.

Overall, there is scope for the EU to strengthen positive conditionality in its policy towards Ukraine. Firstly, the incentive of a deep free trade area has to be made more credible by defining benchmarks towards this rather long-term objective. Which stages of economic integration the EU and Ukraine have to go through in order to achieve that objective has to be made clear, as does the package of reforms (including political reforms) Ukraine has to adopt to be admitted to each subsequent stage. Secondly, the visa facilitation incentive will

¹¹ Missiroli, A., 'The ENP Three Years On: Where From – And Where Next?', EPC Policy Brief, (Brussels: European Policy Centre), March 2007, p.2.

become credible only once its implementation simplifies access to visas in practice. The fact that the EU was quick to ratify the visa facilitation agreement with Ukraine in December 2007 without waiting for ratification by the Ukrainian parliament indicates the EU is serious about its promises. However, individual member states and their consulates have to follow up on the ground; if the current negative experience around issuing visas persists, the EU risks losing its credibility.

Thirdly, the EU needs to improve the presentation of its offer. There is a lot in the ENP which is not presented in an attractive enough way for it to serve as an incentive. Examples include the promise of opening Community programmes and agencies to Ukraine, as well as the inclusion of Ukraine into the pan-European energy space.¹² Fourthly, the EU has to think of new incentives. A visa-free regime, which is already mentioned in the visa facilitation agreement,¹³ and the dialogue which is supposed to start on the matter in line with the outcome of the recent EU-Ukraine Summit should be taken more seriously by the EU. A clear roadmap outlining the reforms which Ukraine needs to implement in order to ensure a visa-free regime (of the type offered in the Balkans) could shake up the “no rush” attitude which prevails amongst the political elite and in Ukrainian society regarding the EU. Finally, if the EU is serious about promoting democracy, it has to think about allocating adequate resources to that end. Improved monitoring requires more personnel in the Commission to follow developments in Ukraine on a daily basis. Financial resources, although greater under the ENPI than TACIS, are still limited compared to accession countries.

Socialisation

The pre-Orange Revolution period was rather scant in terms of political dialogue, an important mechanism of elite socialisation. Apart from forums such as annual summits, the EU-Ukraine Cooperation Council, the EU-Ukraine Cooperation Committee, subcommittees and an Inter-parliamentary Cooperation Committee (all envisaged under the PCA) there was limited space and probably no real desire to communicate beyond a formal framework. Kuchma-gate led to the international isolation of the Ukrainian leader; but Polish President Kwasniewski and Lithuania's Adamkus maintained an informal relationship with him that proved influential in settling the Orange Revolution crisis. At the societal level, contact was even less in evidence: only small-scale projects, such as Tempus or an Institutions Building Partnership Programme (IBPP) were available.

¹² Ukraine has the status of observer in the EU Energy Community Treaty with the prospect of becoming a member. Ukraine applied for full membership in 2006.

¹³ The agreement was signed between the EU and Ukraine in June 2007 and ratified by the Council in December 2007. It simplifies visa procedures and allows long-term visas for certain categories of applicant. See Agreement between European Community and Ukraine on the Facilitation of the Issuance of Visas. See <http://www.delukrec.europa.eu/page45572.html>

Due to the improved climate between the EU and Ukraine since the Orange Revolution, as well as the launch of the ENP, political dialogue has greatly intensified. The EU-Ukraine Action Plan set up new mechanisms of consultation on foreign policy planning between the Ukrainian Ministry of Foreign Affairs and the Secretariat General of the Council of Ministers of the EU. Ukraine was offered the chance to align itself with the EU's CFSP statements, which required intensive involvement on the part of the Ukrainian foreign ministry. Furthermore, the number of subcommittees under the EU-Ukraine Cooperation Committee has increased from three to seven. Diplomatic visits between the EU and Ukraine shot up by one third in 2006 to 135 visits.¹⁴ This increased EU engagement was particularly evident during the 2007 political crisis in Ukraine when Javier Solana, the Commission's President José Manuel Barroso and the Commissioner Benita Ferrero-Waldner all urged Ukrainian politicians to work together towards a solution, whilst the European Parliament organised several visits to Ukraine and a debate with Ukrainian politicians in Brussels.

Under the ENP cooperation between civil servants has intensified due to several instruments which previously had been offered to accession countries only. Ukraine was offered the Twinning and TAIEX programmes, both aimed at enhancing administrative capacity, legal adaptation and 'changing the mindset' of the bureaucracy.¹⁵ Institutional twinning includes training, support for reorganisation measures and expertise that will help Ukraine draft laws and regulations based on EU legislation.¹⁶ Since the Twinning programme was launched at the end of 2006, 22 projects have been run in Ukraine. TAIEX is the only instrument open to Ukraine which is managed by the European Commission's DG Enlargement. It provides expertise, seminars, training and assessment by civil servants and officials of EU member states in various fields identified by Ukrainian officials. Given its demand-driven nature, it allows for easy application and rapid delivery of the required assistance. Since TAIEX was officially launched in Ukraine at the end of 2006, more than 1100 civil servants have benefited from around 50 activities within the programme, with Ukraine being the ENP country that has taken most advantage of this initiative.

The impact of these two programmes is limited to the central state bureaucracy, with all projects being implemented by ministries in Kiev. The low capacity of civil servants and a cultural weakness in strategic planning mean cooperation is limited to certain key areas, mainly the approach to long term political planning in a country where civil servants do not tend to think beyond the next six months.

¹⁴ Razumkov Centre, Ukraine-EU: From the Action Plan to An Enhanced Agreement (Kyiv: Ukrainian Centre for Economic and Political Studies; Europa Institut at the University of Zurich, 2007)
http://www.uceps.org.ua/img/st_img/statti/Ukraine-EU_2007_eng.pdf, p. 59.

¹⁵ Interview with Janos Zakonyi, Project Leader of the EU-funded project 'Implementation of Twinning Operations in Ukraine (ITO)

¹⁶ The Ukrainian-European Policy and Legal Advice Centre (UEPLAC) is another key project in the field of legal approximation. See <http://ueplac.kiev.ua>. In addition, the Commission is funding Ukraine's National Coordination Unit for EU Technical Assistance (NCU). http://ec.europa.eu/europeaid/where/neighbourhood/country-cooperation/ukraine/ukraine_en.htm.

Given the weakness of the political culture, it is worth highlighting that links between political parties in Ukraine and the EU are still rather weak. The influence of the US is more prominent here, especially in campaigning, as all three major blocs have been using American campaign specialists. European experts have lagged behind. Experts from the new member states have played an important role in the development of civil society and election-related work, although mostly supported by US public and private funds. Stronger links with European parties and the engagement of the European Parliament would help to develop Ukrainian political parties from the current 'election machines' they are now into 'classic' political parties with clear platforms and ideologies.

The EU presence has also seen an increase thanks to people-to-people programmes. Erasmus Mundus and the Jean Monnet educational programmes were opened to Ukraine¹⁷ and the European Commission proposed that several Community programmes and agencies be opened to Ukrainian participation.¹⁸ The ENP has also offered enhanced instruments for cross-border cooperation, although targeted at the Western regions of Ukraine only. Thus, four so-called Neighbourhood Programmes were launched that cover all oblasts (regions) of Ukraine that border the EU: Poland-Belarus-Ukraine, Hungary-Slovakia-Ukraine-Romania, Romania-Moldova-Ukraine and the Black Sea Programme. These programmes encourage joint projects between regional authorities and even NGOs with almost 400 million euros allocated for these four programmes for 2007-2013.¹⁹

Although the number and degree of socialisation channels between the EU and Ukraine has augmented since the Orange Revolution, the potential for stronger socialisation persists. Enlargement policy provides numerous examples to be considered. The Civil Society Dialogue between the EU and candidate countries (covering Turkey and Croatia) and the Civil Society Facility launched within the Pre-Accession Instrument, which inter alia supports partnership and networking at civil society level between the EU and the Western Balkan countries (plus Turkey), indicate that the EU can be innovative if the political will is there.

Democracy and human rights assistance

Until the ENP's inception, the Commission possessed two instruments of relevant assistance to Ukraine: the TACIS technical assistance instrument and the European Initiative for

¹⁷ Among many other countries.

¹⁸ European Commission, Communication from the European Commission to the Council and the European Parliament on the general approach to enable ENP partner countries to participate in Community agencies and Community programmes, Brussels 4 December 2006, COM(2006) 724 final. http://ec.europa.eu/world/enp/pdf/com06_724_en.pdf.

¹⁹ European Neighbourhood and Partnership Instrument. Cross-border Cooperation. Strategy Paper 2007-2013. http://ec.europa.eu/world/enp/pdf/country/enpi_cross-border_cooperation_strategy_paper_en.pdf

Democracy and Human Rights (EIDHR). TACIS funding had a limited potential for democracy and human rights promotion, as most of the money was directed towards economic issues. In consequence during the period 2004 - 2006, no more than €15 of €212 million was envisaged for legal and administrative reform, only €10 million for civil society, media and democracy, and €25 million for education and training. Even in a matter such as strengthening the justice system, commercial law took priority. Out of €60 million for the Action Plan on Justice and Home Affairs, only a small amount was earmarked to areas beyond illegal immigration and border control. Moreover, TACIS money went to government, not organisations in civil society.²⁰

Under the EIDHR, Ukraine was given only €5.3 million to improve access to justice and monitor human rights in the 2002–2005 period. During this period 5 macro-projects and 27 micro-projects were implemented by Ukrainian NGOs.²¹ Complicated application procedures and stringent requirements have further limited Commission assistance towards civil society.

The ENPI places much more emphasis on democracy-related issues. The ENPI Country Strategy Paper for Ukraine 2007-2013 and the National Indicative Programme for Ukraine 2007-2010 makes “Support for democratic development and good governance” one of the three priority areas with 30 per cent of the total budget of €148.2 million.²² Moreover, the European Initiative for Democracy and Human Rights was reformed into the European Instrument of Democracy and Human Rights, potentially creating better conditions for NGO applicants. Despite these improvements, EU assistance still lacks the instruments to enable it to work directly with organisations in civil society on a scale comparable to that provided by US assistance.²³

Assistance provided to Ukraine by individual member states seems to be in line with the importance these countries attribute to Ukraine and their stance on EU enlargement. In general the new member states along with Scandinavian countries, the UK and Germany are much more involved than Southern member states.

Ukraine is one of the target countries for the four Visegrad countries. The Visegrad Fund was opened for Ukraine related projects.²⁴ Although the assistance provided by these member

²⁰ Apart from several projects such as Institutions Building Partnership Programme (IBPP; see more at http://ec.europa.eu/europeaid/projects/ibpp/index_en.htm) or two special Civil Society Development Programmes with the total budget of €4 million (information obtained from the Delegation of the European Commission to Ukraine).

²¹ The European Commission's Delegation to Ukraine: <http://www.deluk.rec.europa.eu/page4363.html>

²² This area covers four sub-priorities: 1) public administration reform and public finance management, 2) rule of law and judiciary reform, 3) human rights, civil society development and local government, 4) education, science and people-to-people contacts/exchanges.

²³ According to publicly available data, the US assistance was \$174 million budgeted by all U.S. Government agencies for assistance programs in Ukraine in 2005, and allocated roughly as follows: Democracy Programs - \$46.54 million, Economic & Social Reform- \$53.3 million, Security & Law - \$64.55 million, Enforcement Humanitarian Assistance - \$1.84 million, Cross Sectoral Initiatives - \$7.96 million. Most of the Democracy and Governance programs are implemented through civil society organisations.

²⁴ The International Visegrad Fund is an international organisation based in Bratislava, founded by the governments of the countries of the Visegrad Group (V4) - the Czech Republic, the Republic of Hungary, the Republic of Poland, and the Slovak Republic - on 9 June 2000. See at http://www.visegradfund.org/about_us.html

states is much smaller in figures than European Community assistance, it is better targeted to strengthen democracy and brings experienced NGOs to work in Ukraine.

One-third of Polish civil society support projects have Ukrainian partners.²⁵ Slovakia and the Czech Republic have moved towards prioritising Ukraine in their foreign assistance, albeit still with very limited levels of funding. Hungary launched the Nyíregyháza Initiative in 2003 to advance Ukraine's regional and EU integration via strengthening local civil society, human resources and public administration. More than 300 projects have been implemented with funding available to Hungarian organisations only.

Ukraine is a priority country for all three Baltic countries, with Lithuania the most active both in terms of the number of projects and the level of funding. Overall, the Baltic countries lack strong NGOs through which national assistance could flow, which may explain the rather technical character of their assistance toward Ukraine.

British development aid is moving away from Ukraine, while the FCO's Global Opportunities Fund is increasing its assistance. One of the programmes targeted at Ukraine is the Global Opportunities Fund Re-Uniting Europe programme, for which £500,000 was allocated for the period 2005-2008. The British government is co-funding several projects with other donors focusing on political party building (the only EU member country working in this area apart from Germany) and capacity building on European integration. Denmark has launched a special Neighbourhood Programme to promote 'open and democratic societies founded on the rule of law and based on stable political and economic development.'²⁶ Ukraine is categorised as the highest priority country in the East for the period 2008-2012²⁷ and is targeted by the programmes aimed at promoting public sector reform, civil society development, the reform of the judiciary and media, and countering human trafficking. Assistance from Sweden comes to more than \$10 million annually geared to supporting reform processes. The areas covered by SIDA are economic transformation, traditional security, social security, environment, and education and research, while democracy programmes amount to almost 20 per cent of the total budget.

Germany is the third biggest donor in Ukraine after the United States and the European Union. German development assistance focuses on small and medium sized enterprise development through technical assistance and credit programs.²⁸ There are five German political foundations' offices in Kiev, mainly providing assistance toward political party

²⁵ Thus, out of 110 projects with the total budget of PLN 25,5 million in 2007, 47 projects were implemented with Ukrainian NGOs. Polish NGO assistance grew from only 1,5 million in 2004 (30 projects) to over PLN 10 million in 2005 (48 projects) and to over PLN 25 million in 2007 (110 projects).

²⁶ Web-page of the Danish Ministry of Foreign Affairs.

<http://www.um.dk/en/menu/DevelopmentPolicy/DanishDevelopmentPolicyCountries/TheNeighbourhoodProgramme/>

²⁷ Strategy of the Danish Neighbourhood Programme 2008-2012. Ministry of Foreign Affairs of Denmark, pp. 8-9.

²⁸ <http://www.auswaertiges-amt.de/diplo/en/Laender/Ukraine.html>

development, European and transatlantic programmes as well as fostering political culture and debate in Ukraine. Unlike Commission funds, this system allows for working directly with Ukrainian NGOs via small grants.

Southern member states offer negligible democracy aid to Ukraine. While Italy, Spain, Portugal and Greece are almost invisible in Ukraine, France can mainly be seen via the promotion of large-scale French cultural events. A very few small projects are also available to support media development.

Overall, EU assistance to Ukraine (both the EC and member states themselves) suffers from several serious shortcomings. Firstly, very little funding goes directly to Ukrainian NGOs. Secondly, the EU has done little to stimulate reform of the regulatory environment for the development of civil society. This needs to be tackled to make Ukraine's civil society sustainable in the long run. Thirdly, there is hardly any assistance or attention given to the country's political parties; with the exception of one relevant British project, we could not identify any EU equivalent to what, for instance, US organisations do in Ukraine. The notable exceptions are the German political foundations. Fourthly, where member states are concerned, in many cases assistance is not necessarily presented as democracy promotion. The new member states, for instance, prefer to talk about support for Ukraine's European integration. The most explicit presentation of assistance as democracy promotion can be found in the case of Denmark. Greater rhetorical focus on democracy would seem highly advisable to make the matter more central to the EU's policies towards Ukraine.

Conclusions

Although Ukraine has become accustomed to some important features of democracy such as free elections, civil liberties and a relatively free media, functioning democratic institutions, which would foster sustainable democratic progress, are underdeveloped. Political elites, locked in a tug-of-war for immediate political gains, use and constantly adjust the rules of the game to their short-term needs and personal interests. As the democratic ground rules are not yet defined, and the country lacks an impartial arbiter, an independent judiciary, to mediate between various political interests, Ukrainian democracy remains weak and vulnerable to external influence.

The Orange Revolution itself was possible due to democratic demands rising up from society and a weak central authority unable to consolidate its semi-authoritarian regime, as has taken place in Belarus or recently in Russia. International actors contributed to this process, as communication and cooperation between NGO leaders, journalists, academics and other audiences with their Western counterparts played a crucial role.

Although the EU has managed to replace its 1990s policy of indifference with increased engagement since 2004, it has so far been rather reactive in Ukraine, with apparently no clear over-arching democracy strategy. The EU designed the ENP in the post-enlargement vacuum, but the policy acquired substance only in response to domestic developments in Ukraine, namely the Orange Revolution. Thus, conditionality, albeit weak, was introduced and many new socialisation channels have been opened to Ukraine. The EU offered deep free trade area and a visa facilitation agreement, along with the proposal to open Community programmes, energy integration and increasing people-to-people contacts to the country. Most recently, the EU has also stepped up its offer with the proposal that the new framework agreement take the form of an Association Agreement. These steps put Ukraine ahead of other ENP countries, making it a testing ground for policy, which in the end meant that the Ukrainian political elite, who always were lukewarm about the ENP as an alternative to membership, became involved and applied policy instruments that resembled those of the enlargement. Increased and reformed financial assistance represents a big step forward, evolving from mere technical assistance, as was the case under TACIS.

The ENP's impact on the Ukrainian reform process reveals both strengths and limitations. In terms of the latter, the ENP seems to work only where domestic preconditions allow it to do so. The Orange Revolution undeniably created fertile ground for the ENP in Ukraine, resulting in the EU becoming a much more visible foreign actor, and the reference point for the majority of political elites. This is important because it facilitates the EU's ability to set a reform agenda for Ukraine, to the extent that what Brussels says resonates with the political class, bureaucracy, media and, arguably, society at large. Yet, all of this has not translated into political stability and a real commitment to the reforms so desperately needed in Ukraine.

The ENP's strength, on the other hand, stems from the flexibility of the policy itself and the willingness of the EU to move forward at a greater pace with some countries than others. It could be argued that its potential is far from exhausted, and if the EU is serious about democracy promotion in Ukraine it has to be prepared to go further down the same road. The framework of the new Association Agreement will allow for the development of the EU-Ukraine relationship in its own right, an improvement on the merely loose framework offered by the ENP. A membership perspective would be the ideal scenario, but if the EU cannot go the extra mile just now, then it should at least upgrade its policies so that they have an impact, if not on the immediate future, then at least in the medium and long term.

Given the current state of affairs, and assuming that the EU is interested in promoting Ukraine's democratisation, there are three important strategies the EU should adopt, targeted at political elites, institutions and society at large (or rather its reform-minded sectors).

Where the political elites are concerned, the EU has to revise and improve its incentives, thus stimulating political elite consensus, at the same time making the cost of non-compliance with its clearly formulated pre-requisites simply too costly for local elites to consider ignoring. The EU should make clear that integration is possible, but any further progress in integration should be clearly conditional on specific reform objectives being met. To this end, the EU should formulate specific incentives and each of those has to be linked to specific reform requirements. What the EU has already offered Ukraine contains potential incentives. The establishment of the deep free trade area could be divided into phases or thresholds, with each new phase linked to the implementation of certain political reforms. The content of the reforms also needs to be spelt out in detail, with specific requirements, time frames and criteria for monitoring. It is worth stressing that the integration process in various areas is not one which can be merely bureaucratic, but should have a political logic attached to it. The reforms should be presented to Ukraine in the most attractive way possible, and the greatest political resonance possible ensured. Such an approach would offer realistic and clear short-term incentives and goals around which political elites can coalesce and consolidate. Such an approach, in addition, would make clear that failure to carry out the necessary reforms will bar advancement towards specific benefits of integration.

In terms of institutions and public administration, the EU can, as it already has done to some extent, foster a certain 'path dependency' or 'institutional inertia' in countries such as Ukraine. The more bilateral and multilateral institutions set up with intensive cooperation agendas, the more reasons there will be to 'entrap' Ukraine in these institutions and procedures. The ENP with the instruments at its disposal is a good start, but we need to see those instruments applied far beyond Kiev, at the regional, local and grassroots levels.

Finally, where society at large is concerned, the EU has to make sure that it generates strong demand for an Europeanisation agenda and domestic pressure for reform from within. The challenge for the EU is to target its aid and identify potential pressure groups and lobbies which can serve as reliable allies. That cooperation should emphasise above all building the capacity of such groups, their influence and reach. These groups could potentially create the channels required to influence and set agendas, relaying the demands of civil society to government, and lessening significantly the monopoly large business interests currently enjoy in influencing government. In this context, the current policy in which too little funding goes to civil society directly (both Commission funding and that coming from member states) should be revised and remedied. The EU needs a presence in organisations within civil society, at least at a comparable level to the influence the US and Russia wield in Ukrainian society (due to a strong presence at the people-to-people level). At the same time, the EU should tap the potential of its own society to contribute to the process of democratisation beyond EU borders. It should continue to create new socialisation channels, deepening those that exist and making them more widespread.

Last, but not least, the EU should seriously consider adopting a road map toward a visa free regime for Ukraine. As long as Schengen visas are a problem for the majority of Ukrainians, the EU will carry on being perceived as 'fortress Europe', and its impact in shaping events will consequently be diminished, especially at the level of civil society. Many informed studies indicate that visas are not an effective tool to combat illegal immigration in any case, and that modernising border control and strengthening police and judicial cooperation would be a more effective strategy. Given this, the EU should consider scrapping visas which in many respects are an anachronism. Offering a visa-free roadmap to Ukraine, as the EU has done for the Western Balkans, would allow the EU to increase its leverage over the reform processes in Ukraine (lifting visa restrictions would be conditional on specific reforms being effected) and give an immense boost to the Europeanisation process in Ukraine.

None of these recommendations will bring immediate results or cause any policy U-turns, given that conditions on the ground in Ukraine are still precarious. Besides, Russia poses a significant destabilising threat, undermining EU efforts in Ukraine. Yet some of the strategies outlined here would help tip the balance in favour of reforms and lead to the trends and interests that amount to obstacles in the medium- and long-term being marginalised. Developing Ukraine's democratic institutions requires strong integration incentives, a stable policy and long-term assistance from its Western neighbours.



Chapter 6

Belarus

<Balazs Jarabik and Vitali Silitski >

As President Lukashenka toys periodically with rapprochement towards Europe, the EU still needs to define a more committed approach towards Belarus. Belarus' label as the "last dictatorship of Europe" has belatedly encouraged Brussels to start devising a policy and different forms of assistance towards the country. Belarus is the only country in the region where the EU is unwelcome by the government; where the European Neighbourhood Policy (ENP) has not been implemented; and where Brussels is attempting to communicate with the population directly. But to gain a role between US pressure and Russian engagement the EU needs to upgrade its commitment to helping Belarusian society.

The EU has been sticking to its democratic principles toward the regime. Its cautious dialogue is based on concrete conditions. However, the EU needs to make the assistance it grants to Belarus consistent with its policy towards the country and ensure better coordination between the policies of the most influential member states. It must also deal seriously with the image it gives of being "shy" and inept in the tough environment of the former Soviet space. Brussels should bear in mind that president Lukashenka intends to cling on to power for as long as he can, and that a new generation, interested in wealth, a more liberal lifestyle and in having a personal stake in bettering the country's international image is becoming more influential. As this transformation encourages more private investment from Russia and the West, the most important question remains whether the regime will be able to adapt to the new challenges, or whether it will further backslide. In the wake of Russia's invasion of South Ossetia, Lukashenka may be expected to seek further engagement with the EU; the latter should resist the temptation to dilute its focus on democracy for the sake of such engagement.

If the EU is more consistent, interactive and proactive towards Minsk, it may win considerable sympathy from ordinary Belarusians, who already view the EU as a model that is functioning in an orderly and successful manner in comparison with the oligarchic former Soviet space. However, Brussels should not allow the admission of Belarus' Western neighbours to the Schengen system in January 2008 – which discriminates further against Belarusians – to tarnish the best tool it has at its disposal, namely its image.

Politics in Belarus

Belarus has been labelled “the last dictatorship of Europe”. Aleksander Lukashenka won the country’s first presidential elections in 1994 on the grounds of his promises to halt market reforms, fight corruption and re-establish the social guarantees of the Soviet era. Soon after his election, he established direct presidential control over all institutions, which allowed him to control the electoral process, marginalise the opposition, reduce the modicum of independent press to an even barer minimum and create mechanisms to control the economy and society. He was re-elected in 2001 in an election subject to much criticism surrounding the disappearance of key opposition figures.

From the viewpoint of many Belarusians, Lukashenka has performed in accordance with his original promises. The unreformed, extensively bureaucratised Belarusian economy has performed strongly for most of the last decade thanks to both the economic upturn in the countries that traditionally import Belarusian goods and the generous discounts on energy prices provided by Russia, Belarus’ major ally. Extensive social guarantees, full employment and, in recent times, the stability of the exchange rate, cemented the social contract between the regime and the population. The latter appeared to be prepared to tolerate antidemocratic policies in exchange for security and stability in their daily lives. Backed by solid public support and the booming economy, Lukashenka ignored international criticism.

The government system in Belarus is based on the principle of unlimited presidential authority. The powers of the president are unrestricted *de jure* or *de facto*. A 2004 referendum removed limits on the presidential term, opening up the possibility of a lifelong presidency for Lukashenka.

The Constitution severely restricts the legislative powers of the Parliament - the National Assembly – by giving legal preference to decrees and orders signed by the president over acts of Parliament.¹ The latter cannot adopt any law that would increase or decrease government spending without the consent of the president or the government. Likewise, the Parliament only has nominal control over the Cabinet. If the House of Representatives - the lower chamber of the Parliament - twice fails to approve the candidacy for prime minister proposed by the President, it faces dissolution. Judicial power in Belarus is *de facto* subordinated to the presidency.

¹ Here and henceforth, articles of the Constitution of the Republic of Belarus are quoted from the publication on the National Legal Portal of the Republic of Belarus, <http://www.law.by/work/EnglPortal.nsf/6e1a652fbefce34ac2256d910056d559/d93bc51590cf7f49c2256dc0004601db?OpenDocument>.

Consolidation of absolute presidential rule in Belarus rules out the possibility of meaningful electoral contestation. The country's Electoral Code does not allow independence for the electoral commissions, and fails to provide for sufficient transparency of the vote count or for appeals against the decisions of election commissions.² The Central Election Commission does not act as an impartial observer of the law, but rather actively interferes to enforce its interpretation of the electoral legislation, to back the conduct of lower-level commissions in supporting the candidates nominated by the authorities and to justify discrimination of the opposition. The Head of the CEC, Lidzia Yarmoshyna, has openly described pro-presidential parties in the press as "constructive" and "patriotic", while deeming opposition parties to be "subversive", and accusing Independent Election Observation NGOs of being the "puppets" of Western financiers.

The presidential elections of 19 March 2006 ended with a resounding victory for Lukashenka, who received 83 per cent of the votes cast, according to the Central Election Commission. The ballot was marred by voting irregularities, harassment of the opposition, and pre- and post-election violence. Independent opinion polls, however, confirmed that Lukashenka could have outscored the opposition by at least 63 percent to 24 percent had the vote count been fair.³ At time of writing, a repeat of these conditions appeared highly likely in the September 2008 parliamentary elections.

Belarusian NGOs operate in a hostile legal environment fine-tuned to de-legitimise and even criminalise most forms of independent civic activity. The campaign to de-register NGOs began in 2003 and was fuelled by the authorities' fear of the role played by the independent civic sector in the democratic "coloured" revolutions in Georgia (2003) and Ukraine (2004). During this period, according to the Assembly of Democratic Non-Governmental Organisations, at least 200 NGOs were closed down by court decisions, and more than 100 were forced to self-liquidate by the pressure of the authorities.⁴ Not a single appeal against court decisions was granted by courts of higher instance.

Belarus ranked 186 out of 195 countries in the Freedom of Press Survey carried out by Freedom House in 2007.⁵ The constitutional guarantee on the freedom of speech is disregarded by the government, and dissenting voices and media outlets are silenced by repressive media laws and licensing rules, libel suits, the arbitrary closure of non-governmental media outlets, discriminatory pricing for printing and distribution, and the systematic harassment of journalists.

² Official information on the web site of the Central Election Commission, <http://rec.gov.by>

³ Information from the Independent Institute for Socio-Economic and Political Studies (IISEPS)

⁴ <http://www.freedomhouse.org/template.cfm?page=47&nit=391&year=2006>

⁵ <http://www.freedomhouse.org/uploads/fop/2007/pfscharts.pdf>

The government system in Belarus has generally been regarded as stable over the last decade, as the president's absolute authority over all institutions of power and his use of repression to marginalise the opposition, in addition to the blockade on information, ensured that Lukashenka's regime was immune to internal and external pressures. It is important to note that the stability of the regime has mainly rested on its ability to provide rising living standards for the population. However, the energy conflict with Russia that broke out in January 2007 unleashed a process which has led towards the erosion of that social contract.

A major crisis was avoided in 2007 as the full convergence of the energy prices that Russia charges Belarus with world prices was postponed until 2011. However, the phasing out of generous Russian energy subsidies brought an end to the reform-free period. Lukashenka's government has had to search for new solutions to secure economic and political stability rather than relying purely on Russian subsidies and on sustaining the unreformed command economy. The government has raised cash by selling some of the assets owned by the state and attracting foreign loans from the West. Nevertheless, these ad-hoc measures do not remove the long-term challenges to the stability of the Belarusian economy, as it is already suffering from declining competitiveness and the authorities are having difficulty maintaining the over-stretched social safety net and full employment. In May 2007 the government was forced to abolish the wide-scale (although highly inefficient) system of social privileges and subsidies. This measure, albeit not fatal for public welfare, proved highly unpopular among Lukashenka's consumer society and the popularity of the president steadily declined throughout the year, according to independent polls.⁶

The energy conflict also had repercussions inside the regime. A series of high-profile conflicts between security agencies and a crackdown on the leadership of the KGB in the summer of 2007 pointed to an increase in competition between top members of the regime for influence - potentially damaging for the system's internal coherence.

Attempts to find new ways of ensuring the long-term stability of the system briefly opened up a process of bargaining with the West. Lukashenka's government was willing somewhat to ease political repression in the first half of 2007 in a bid to try and avoid being withdrawn from the European Union's trade preferences. Lukashenka also announced the readiness of his government to cooperate with the EU on energy security. Likewise, European investors were allowed to participate in privatised Belarusian companies.

⁶ <http://www.iiseps.org/ebul07-12.html>

However, as Lukashenka continued to insist that no major political reforms would take place, prospects for normalising relations with the West faded again. Attempts at 'dialogue' with the EU seemed to die in December 2007 after Russia offered Belarus a \$2 billion loan for stabilisation. Dialogue with the EU was resumed again through 2008 as the president released most political prisoners – a last batch of these prisoners was set free in August 2008. However, the introduction of economic sanctions by the United States against Belarus' top energy exporter, Belneftekhim, provoked a new round of confrontation with the West in March 2008. This was accompanied by renewed political repression and the return of police brutality to the streets. These ups and downs are likely to characterise politics in Belarus until another stage of development is initiated. Minsk forced the US to reduce its Minsk-based staff from 34 to six diplomats at the same time as the EU opened its delegation with four diplomats in April 2008.

Intervening interests

Despite the relatively high level of interest that has taken root in Brussels, Europe has so far failed to understand Belarus and is constantly lagging behind developments in the country. This is not surprising given that only 11 EU countries have embassies in Minsk. The EU is struggling to deal adequately with the continent's "last dictatorship" with only three full-time European nationals appointed to the task (one in each of Kiev, Minsk and Brussels). The "Russia-first" policy of Germany, France and Italy, in addition to the national interests of Belarus's EU neighbours, has also hampered policy coordination. Thus, it is no surprise that the EU has been highly reactive and slow.

The year 2004 was a real milestone in the EU's relationship with Belarus for three reasons. Firstly, due to enlargement, Belarus became a direct neighbour of the EU and new member states started to increase the EU's interest in Belarus. Secondly, the widely condemned 2004 referendum, along with the parliamentary elections of 17 October 2004, allowed Lukashenka to run for a third term in office (and possibly more thereafter). Thirdly, since 2004, the EU has been receiving about 50 per cent of Belarus' exports, while only 20 per cent of Belarus's imports come from the EU. This has not only served to put Belarus "on the map" in Europe, but has also raised the EU's profile within the Lukashenka administration.

Although complimentary to that of the EU, US policy is more "hard core". The official policy of "selective engagement" limits ties to the regime while providing modest support to pro-democracy organisations in Belarus. The Belarus Democracy Act, signed by President Bush in October 2004, authorises aid for pro-democracy forces in the country. In fact the US government has supported civil society and independent media in the country since independence. The bill supports sanctions against top leaders of the Lukashenka regime until

Minsk meets specific democratic and human rights criteria. The extension of visa sanctions in 2007 was followed by the freezing of the assets of Belarus's top hard currency earner, the Belneftekhim conglomerate. The extension of sanctions in March 2008 provoked a heated reaction from official Minsk, which, in the course of just several weeks, expelled all but six diplomats from the US embassy.

The energy conflict between Belarus and Russia in the winter of 2006-2007 re-defined relations between the "Slavic neighbours". On the one hand, the transition to higher energy prices confirmed that the era of the Kremlin's unconditional political and economic support for Lukashenka's rule is coming to an end. On the other hand, Russia's willingness to alleviate the cost of this transition clearly indicated that threats of a "divorce" between the Slavic cousins were rather exaggerated. The policy of offering Lukashenka political and economic support in exchange for geopolitical loyalty and promises to unite Belarus with Russia was inherited by Russia's outgoing President Vladimir Putin from the Yeltsin era. Putin has tried to change this policy and it seemed that the Kremlin was even willing to dump Lukashenka for someone more compliant with Russia's interests. This pressure actually prompted the process of Lukashenka's domestic entrenchment and the partial "nationalisation" of his regime. Pro-independence Belarusian propaganda has consistently squeezed pro-Russian integration rhetoric out of official discourses since 2003. By 2007, most Belarusians declared they were ready to bear economic hardships in order to preserve the independence of their country - a commitment unthinkable just a few years before.⁷

The Kremlin was even more unwilling to pressure Lukashenka politically after the wave of "colour revolutions" in the former Soviet Union reduced Russia's geopolitical influence in the region. Lukashenka briefly re-emerged in public discourses as Russia's only close ally - an asset he skilfully used to postpone energy price hikes for Belarus until after the 2006 presidential elections.⁸ However, in the end, Russia's decision to raise energy prices from 2007 onwards and abolish other benefits led to a clash between the two countries.

The real issue behind the Russian policy change in 2006 was that the Kremlin no longer wants to pay the 'imperial fee' now that Belarus seems to have been fully immunised against the "colour" revolutions. Rather it wants to increase its control over the economy. However, shifting the burden of economic change towards Lukashenka may unleash internal transformation processes in Belarus. On the other hand, Lukashenka is eager to protect his fiefdom against any influence (including Russia's), yet cannot ignore processes which may undermine the foundations of his rule. Thus several high-profile privatisation projects were

⁷ <http://www.iiseps.org/data07-01-2.html>

⁸ The fact that energy price hikes were postponed till 2007 to ease Lukashenka's re-election was explicitly confirmed by Putin, whereas Russia's foreign minister, Sergei Lavrov, condemned international observers who criticised the conduct of the March 2006 presidential elections as "instigators of mass disorders". <http://www.highbeam.com/doc/1P1-120525042.html>

authorised for the first time in years.⁹ Minsk has intensified contacts with Iran, Venezuela, and Arab countries, thus demonstrating Lukashenka's willingness to avoid both economic and financial pressure from Moscow and democratising pressures from the West.

The important domestic transformation in Belarus in 2007 was the authorities' decision to reconsider Belarusian national identity and to place emphasis on national pride as a means of providing legitimacy. Minsk has identified energy security as the most essential element of Belarusian independence – both from Russia and the West. At the same time, Lukashenka began to incorporate part of the rhetoric of Belarusian nationalists from the early 1990s,¹⁰ as shown in the official celebrations on the “alternative” Independence Day of 25 March 2007, or in the re-engagement of officialdom with dissident rock singers. Perhaps the greatest surprise to everyone is the fact that Lukashenka has departed from his trademark paternalism and is promoting self-reliance and personal responsibility, as he did in his New Year address on 31 December 2007, telling Belarusians that the government is not “Santa Claus.”

This change has not gone unnoticed in Moscow: Sergei Karaganov warned that Lukashenka has “reduced the influence of the once dominant Russian media” and “in more than a decade, a Belarusian political class has emerged which no longer wants a rapprochement with Moscow”.¹¹ Lukashenka, albeit eager to reduce Russia's influence in his home affairs, proved unwilling and unable radically to disengage from Russia. Indeed, a large part of the Belarusian economy (including its industry outside of the petrochemical sector) is nearly completely dependent on access to the Russian market. Belarus has already experienced a huge gap in its current account, which threatened the stability of the national currency and made Belarus turn to Russia to solicit a stabilisation loan of \$1.5 billion. The result was a logical end to the somewhat clumsy geopolitical shopping that Lukashenka had undertaken throughout the year. Putin's visit to Minsk on 14-15 December confirmed that the Kremlin remains the chief political and economic sponsor of official Minsk – although Lukashenka made a bet on certain alternative circles of Russia's oligarchy being crucial for his economic and political survival, such as Moscow mayor Yury Luzhkov and financial tycoon Roman Abramovich. After Russia's invasion of South Ossetia, Lukashenka resisted pressure from Moscow for Belarus to recognise the independence of the Georgian enclaves.

Certainly, if Lukashenka is to feed the consumer society he created by constantly ratcheting up wages, then he needs a friendly European attitude to convince Moscow to pay Belarus's bills and/or attract as much Western investment as he considers healthy for his own grip on

⁹ See ‘Belarus: Recent Privatizations Lack Transparency’, Oxford Analytica Brief, 18 October 2007.

¹⁰ Belarus Brief, 21 December 2006, Pontis Foundation.

http://www.nadaciapontis.sk/tmp/asset_cache/link/0000015296/Belarus%20Brief_21.12..2006.pdf

¹¹ Karaganov, Sergei, ‘How to make the elite in Belarus pro-Russian’, Ria Novosti, 26 January 2007. As a result, according to Karaganov, Belarus “is not a dependable transit country for Russian goods”, especially oil and gas, and Minsk is threatening Moscow with geopolitical re-orientation and ideas of setting up a Baltic-Black Sea buffer zone between Russia and the EU.

power. Lukashenka's bottom line is to make sure the economy serves the purpose of the regime. However, power dynamics are likely to change significantly with increased private investment. Any economic reform will weaken his absolute power, as the elites have already forced him to distribute economic shares through privatisation.

European democracy and human rights commitments

Belarus's relations with the EU developed gradually, leading to the signing of a Partnership and Cooperation Agreement (PCA) in 1995 in conjunction with an interim trade agreement. However, the PCA was never ratified. After the 1996 referendum extending Lukashenka's power, the EU suspended the ratification process. Furthermore, the EU decided not to back Belarus' membership of the Council of Europe and announced the suspension of technical assistance programmes, with the exception of humanitarian aid, regional projects, or those which directly aided the democratisation process. Relations further deteriorated after the disappearance of three opposition politicians and a Russian journalist in 1999-2000. Following an in-depth report chaired by Cypriot MP Christos Pourgourides for the Council of Europe which called on the Belarusian authorities to carry out an independent inquiry,¹² the EU introduced a visa ban on four high-ranking Belarusian officials who were directly implicated in the disappearances.¹³

The 1997 policy framework is still in force today, although the EU has been trying to create some space within it to accommodate different approaches.¹⁴ In the year following further flawed presidential elections in 2001, the EU attempted to improve relations with Belarus through a proposed step-by-step approach,¹⁵ whereby normalised relations were offered to Belarus if improvements were made with respect to human rights and democratic principles. However, the talks held in Minsk with EU Ambassadors based on specific EU benchmarks did not lead to tangible results. Moreover, Minsk closed down the OSCE Assistance and Monitoring Group (AMG).

The situation began to change with the enlargement of the EU in May 2004, and especially given the active engagement of a number of new member states with the Belarus question - mostly Lithuania, though also Poland, Slovakia and the Czech Republic. Only a few days

¹² See full report at <http://www.charter97.org/files/memorandum.html>

¹³ Vladimir Naumov (Minister of the Interior), Dmitri Pavlichenko (Officer of Belarus' Special Forces), Victor Sheiman (Head of Presidential Administration), Yury Sivakov (Minister of Tourism and Sport). Following the 2004 Parliamentary Elections, on 13 December 2004 Lidia Yermoshina (Head of Central Election Commission) and Yuri Podobed (Commander of Minsk OMON) were added to the list.

¹⁴ See Lynch, Dov (ed.), 'Changing Belarus', Chaillot Paper No 85, November 2005, Institute for Security Studies, Paris.

¹⁵ Commission documents refer to the two-tracked approach as the 'policy of restricted contacts with the authorities... and supporting the needs of the population and democratisation...'. See European Commission, 'Belarus Country Strategic Paper 2007-2012' and 'National Indicative Programme 2007-2010', p. 4.

after the 2004 parliamentary elections and referendum the EU refashioned and reinforced its existing policy into a two-pronged approach. This boils down to trying to work with bureaucrats within the existing administration through an on-going financial aid programme that requires approval and cooperation from Minsk, whilst upping the intensity and frequency of criticism of the regime's policies in official statements. The EU has also widened its contacts with opposition figures and applied pressure on Belarus on the specific matter of labour rights. At the same time, financial aid is being targeted at those areas of civil society where government approval is not required, namely, education and the media.

The EU also applied targeted sanctions after the election, enlarging the list of those eligible to have their assets frozen and to be refused a visa, particularly targeting judges and public prosecutors who were involved in the sentencing of political prisoners.¹⁶ This has been judged by local actors on the ground as the most meaningful and effective EU measure. In addition, the European Commission and the high representative for CFSP intensified criticism of Minsk's human rights record, although this had little impact, if only because such declarations are only covered by independent media outlets and specialised websites. The mobilisation of the EU's Head of Missions (HOMs) around the 2004 parliamentary elections and referendum had a much bigger effect. One of the most memorable moments was the HOMs' visit to the tent camp protest set up after the 2006 presidential election. Slovakia, as local representative of the Portuguese EU Presidency, provided an excellent example of how to mobilise the embassies of member states and increase EU pressure, issuing 15 official statements in six months, and organising several regional visits and press conferences.

Most international and local experts,¹⁷ however, have long been sceptical about EU policy, arguing that the EU lacks presence in Belarus and a sense of urgency in its dealings with the country. Of course there are limits to what the EU can do in the region, where the situation is far more dependent on developments at the local level, objective conditions on the ground, and relations between Belarus and Russia. Nevertheless, given recent changes to these factors, the EU does have a real chance to establish itself as a player in the region. With the US Embassy having down-sized significantly, the EU should continue to build on the generally positive image it enjoys across the population at large, but this will require a real increase in both its presence in the country and in aid programmes.

Insufficient coordination both within EU institutions and between member states on the matter of democracy promotion has also hampered more effective policy implementation. Lithuania and Poland played an instrumental role in uniting the EU around the 2006

¹⁶ Council Resolution 765/2006 (as amended by 1587/2006): Currently there are 40 individuals on the visa ban list.

¹⁷ www.belinstitute.eu/images/stories/documents/gspaug7en.pdf

presidential elections. However, developments since then and, most importantly, the democratic opposition's failure to seize the day, have led to both countries fostering contacts with the regime once more, while at the same time maintaining aid to civil society and the independent media. In addition, on-going and regular US-EU policy and aid co-ordination has proved to be a useful tool. The US position which advocates a greater and more visible EU engagement in Belarus is a positive example of transatlantic cooperation.

Finally, coordination within the EU has also increased. This is principally down to Brussels' decision finally to open an official delegation in Minsk. Although the Belarusian side has been very slow to react to this initiative, the European Commission took the initial step of appointing a "chargé d'affaires" for Belarus who is taking care of coordination from Kiev, with frequent visits to Belarus, maintaining contacts with member states directly in Minsk, as well as European implementers around Belarus.

Conditionality

In Belarus the EU has tried various forms of both negative and positive conditionality. Following the 1996 referendum, Brussels combined carrot and stick policies to make its voice heard. The stick approach saw the suspension of the PCA signed in February 1995 as a direct policy response to the 1996 referendum, and also included Minsk's application for membership of the Council of Europe being turned down, as well as the restriction of contacts with officials and the limitation of TACIS assistance to democracy promotion programs and support for the work of the OSCE.

The stick-based approach towards Belarus made little impact, as Minsk appeared largely unconcerned about its negative image in the West. Additionally, the sharp curtailing of technical assistance programs deprived pro-democratic civil society and independent media of EU assistance within the country at the time when it was most needed. In any case, a hard-line policy fits in all too neatly with the regime's efforts to disengage itself from the West and banish European democratic values. The remaining programmes administered under the aegis of TACIS¹⁸ are subject to approval by the authorities, which only gives a green-light to those of mutual interest, such as cross-border protection and common security concerns.

The carrot-based approach of the EU's democratising effort, launched through the Organisation for Security and Cooperation in Europe (OSCE), set up a three-way dialogue

¹⁸ In 1996-2006, the figure was €25 million - at the level of Turkmenistan. See www.delblrec.europa.eu/page84.html

between the authorities, the opposition and the international community. The OSCE's Advisory and Monitoring Group (AMG) opened in Minsk in May 1998 after lengthy negotiations. AMG did set up a regular consultation platform for dialogue between the authorities and the opposition, working to find a compromise solution to ease political repression and to lead to the recognition of the opposition.¹⁹ However, this initiative was not particularly welcomed by either side: the opposition was concerned the process might end up legitimising the 1996 referendum, whereas Minsk tended to consider the Group as no more than a kind of think-tank for reform from within. The upshot of this saw the AMG effectively being ejected in 2001-2002, when staff visas were not renewed.²⁰

The step-by-step benchmark approach introduced by the EU in 1999 was a form of positive conditionality. The reactive nature of EU policy allowed Lukashenka to control the breadth and depth of EU engagement in Belarusian affairs, and effectively led to EU policy being manipulated. The amount of direct and indirect economic support offered by Moscow to Belarus in exchange for geopolitical loyalty has been estimated at as high as 20 per cent of national GDP;²¹ dwarfing EU co-operation. The EU failed to see any urgency: notwithstanding the flamboyant behavior and rhetoric of its president, Belarus was a stable, functional and predictable country that did not create serious problems in the EU's backyard.

The EU did not allow Belarus into the ENP. This decision strengthened growing anti-European state propaganda at the time Lukashenka was preparing the referendum. At the same time, the authorities effectively silenced any meaningful opposition, eliminating independent media outlets and closing down hundreds of NGOs, thus dismembering the very pro-European community capable of delivering the EU message to Belarusian society. Over the course of the next two years, support for EU integration declined by some 20 per cent.²²

Addressing the intensification of political repression in Belarus, the EU returned to punitive measures. The 2004 referendum was followed by a travel ban on those close to the regime suspected of participating in the kidnapping of leading opposition figures. The visa ban was extended following the 2006 presidential elections, and asset freezing was added as a measure as well. In December 2006 the EU withdrew its Generalized System of Preferences (GSP) for Belarusian goods. Achieving consensus on the withdrawal was a difficult process, and one which revealed wide-ranging policy differences within the EU and between various

¹⁹ The criteria were: 1) return power to the Parliament, 2) ensure the presence of the opposition in electoral commissions, 3) provide the opposition with access to state media, 4) conform to international standards of electoral legislation. ec.europa.eu/external_relations/belarus/pdf/political_legal_foundations_en.pdf

²⁰ Under a compromise deal, the OSCE returned to Belarus with a far more restricted mandate, and the official Parliament of Belarus was granted a seat in the OSCE Parliamentary Assembly.

²¹ Estimates made primarily by Russian analysts and heavily disputed in Belarus, see analysis by the Belarusian Institute for Strategic Studies, www.belinstitute.eu/images/stories/documents/political%20situation%20in%20br_paper_eng.pdf

²² Various public opinion poll results by IISEPS, available at www.iiseps.org

member states. The measure was opposed by those with close economic ties with Belarus. Ironically, those same neighbouring countries are the same ones most actively engaged in democratisation efforts, such as Poland, Lithuania, Latvia (all of which voted against), the Czech Republic and Slovakia (both of which abstained).

Although Brussels denies that the withdrawal of GSP was equivalent to imposing economic sanctions on the country, Minsk took the issue seriously. The withdrawal coincided with the energy conflict between Belarus and Russia, which prompted Lukashenka's government to turn to the West, resuming contacts and leading to a thaw in relations. Although there have been signs of progress - the release of political prisoners and greater freedom of assembly - Minsk has flatly refused to relinquish any political control. The estimated loss from GSP withdrawal of 30 million euros was not considered a serious sanction, and Minsk, after a short period of 'behaving itself', soon began to crack down again - and to access Western loans. In response to the release of political prisoners the EU re-asserted its offer of co-operation. And with the post-Ossetia context in mind the Union appeared to be considering diluting the democracy criteria applied to Belarus in the run up to the country's September 2008 parliamentary elections.

Socialisation

Instruments geared to engaging directly with Belarusians have been absent from the EU policy menu – at least until very recently. The impact of EU support for civil society such as the establishment of independent radio broadcasters, and assistance provided for expelled students has barely reached out beyond the small opposition subculture.

After 2004 the EU increased support for civil society and people-to-people contacts. The EU began supporting expelled students, civil society and media projects. Opposition leaders began to receive a warm welcome from top EU officials. The European Parliament has twice awarded its prestigious Sakharov Prize to Belarusian nationals in recent years: in 2004 the Belarusian Association of Journalists was the recipient and, in 2006, Alexander Milinkevich, the united opposition candidate in the presidential elections, received the award in Brussels.

An attempt to reach out to Belarusian society at large finally materialised in November 2006 with the launch of the non-paper, *What the European Union Could Bring to Belarus* – which was labeled a kind of 'shadow action plan'. This outlined the possible areas of cooperation and aid in economic, educational, environmental, and humanitarian areas which would be forthcoming if the government met twelve key demands.²³ Only 19 per cent of Belarus citizens²⁴ were aware of the initiative, which merely confirms that the EU lacks effective entry points into Belarus society at large; with the Minsk government flatly refusing to participate

in circulating the document, the democratic opposition could hardly act as a vehicle for the message either.²⁵

Although the non-paper gave a considerable public relations boost to the democratic opposition by allowing it to use the 'twelve point' shopping-list as a propaganda weapon against the regime, it remains to be seen to what extent it reflects a definitive and common EU commitment to democratisation of Belarus. At the end of 2006, former Polish President Kwasniewski was the first to propose "giving Belarus a chance to leave behind its isolation and open itself to possibilities for cooperation".²⁶ The Chairman of the Parliamentary Assembly of Council of Europe (PACE), Rene van der Linden, also visited Minsk to assess whether Lukashenka could be another Voronin.²⁷ The policy U-turn in Lithuania – and partly Poland too - is of more substance, with Vilnius in particular increasing high-level contacts with the Belarusian authorities based on the logic that "if we don't talk to them, Moscow will".²⁸ The weakness of the Belarusian democratic opposition, unable to harness the momentum of the 2006 elections due to personality clashes and in-fighting, has also offered a "helping hand" to those advocating a "dialogue with the devil".²⁹

At the same time, the EU has moved to engage more meaningfully with the regime in Minsk too. One of the official reasons was the December 2005 request to open an EU delegation in the capital. The Belarusian authorities were extremely slow to react to Brussels' request and the EU could have justifiably refused Belarusian Embassy staff access to EU institutions on reciprocal grounds, but it never considered such a step. This was naturally taken as a sign of weakness in Minsk. Nevertheless, using its small TACIS office in Minsk as a base, the EU managed significantly to intensify contacts with the regime, increasing the capacity and focus of the delegation in Kiev, appointing a Belarus chargé d'affaires, engaging the European embassies in Minsk and setting the pattern of more frequent talks with the Belarus embassy in Brussels. The mainly US-funded, Brussels-based Office for Democratic Belarus has become an important additional part of the picture, getting through to Belarusian civil society and opening a dialogue with it. The Office, together with the European Parliament and some European NGOs, was responsible for an increased number of Belarusian civil society visits to Brussels.

²³ These demands included: free elections, freedom of the press, freedom of NGOs to organise, the release of all political prisoners, the investigation of disappeared opposition leaders in 1999, the establishment of independent judiciary, the end of arbitrary arrests, the respect for national minority rights, trade unions rights and freedom of enterprise, we well as the abolition of the death penalty and cooperation with European organisations. See at www.delblrec.europa.eu/page2932.html

²⁴ In December 2006, according to a public opinion poll conducted by the Novak Laboratories, Minsk, Belarus. This figure was presented by Novak's Andrei Vardomackij in Brussels during the Belarus Study Day at the European Parliament, 8 February 2007

²⁵ Remarkably, the European March, a rally organised by the opposition in Minsk on the 14th of October 2007 to support the demands of the non-paper, attracted only 3,000 participants.

²⁶ Aleksander Kwasniewski, 4 December 2006, Speech at Conference "Taking the challenge: In the pursuit of a New European Neighborhood Policy." Conference organized in Warsaw by Friedrich Ebert Stiftung and Amicus Europae Foundation. Quoted in Jarabik/Rabagliati.

²⁷ The Moldovan President turned to the West in 2002. See at Socor, Vladimir; Lukashenka redoubles overtures the West, Jamestown Foundation, 29 January 2007

²⁸ Interview with a Lithuanian official

²⁹ See Jarabik/Rabagliati, op. cit.

In the area of education, the EU has been able to make a substantial impact, most notably through its support for the European Humanitarian University in exile in Vilnius. Nearly €3M worth of aid for 350 students over 3 years is being provided through the Nordic Council of Ministers. Additionally, a €4.5 million programme was launched in 2007 to provide support for about 200 students to study at EHU who were forced to abandon their studies in Belarus following their participation in opposition activities and protests, as well as up to 100 students to study in Ukraine.³⁰ Belarusians can also take part in the Erasmus Mundus External Co-operation Window aimed at encouraging the mobility of students and academic staff. Combating human trafficking or managing borders are other examples of projects through which EU civil servants seek to continue a dialogue with the Belarusian authorities.³¹

Only in the aftermath of the Belarus-Russia energy row did Minsk show any kind of interest towards the EU. Current relations are therefore a by-product of the change in Minsk's relations with Moscow, rather than fruit of any EU policy. The regime is interested in economic matters and investments from Europe, as well as cooperation in areas of mutual interest, such as border and energy security. The EU, however, has stuck to its long-standing and principled human rights based approach. In addition, it is trying to increase its presence by organising field trips, cooperation with the Venice Commission on electoral law, and exhibitions.

Europe has a positive image in Belarus, especially among younger people. Although independent polls show declining numbers in favour of EU integration, the European brand is strong, built as it is on the perception of the EU as a rich, effective and functioning political-economic structure. Whilst Belarusians are well aware they have no immediate need to choose between the EU and Russia, pro-European sympathies are expected to strengthen. This is especially likely for many observers because the feeling – mainly in Russia – is that the integration process between the two neighbours is a charade. Indeed, feelings of national identity have begun to spread in Belarus, and Lukashenka takes advantage of every opportunity to underline the differences between Belarus and Russia.³² Strengthening Belarus' European nature would seem to be the next logical step. However, it would be desirable to see civil society as well as the EU shaping and contributing to that process. Surprising as it may seem, the Kremlin will not undermine Lukashenka's efforts to keep Russia at cultural/national arms-length, but it will continue to do all it can to increase Russian economic presence in Belarus. Belarus is not a priority for the Kremlin because, in its view, Lukashenka is just too politically unpalatable for the West ever to really take him seriously. Only by

³⁰ Poland has added an additional 300 students through its Kalinouski Program, while the Governments of Netherlands, Estonia, Latvia, Czech Republic and Slovakia have also opened initiatives for students.

³¹ Notes from the EU Assistance Workshop, Vilnius, Lithuania, March 17-18, 2004 quoting Ian Boag, the Head of EU Delegation in Kyiv, Ukraine. Made available by Alastair Rabagliati.

³² Recent trends in Belarus-Russian military cooperation confirm this. Lukashenka has already carried out a process of "de-Russification" of the military and secret services, following the 2004 parliamentary elections. Belarus has significantly reduced the number of its soldiers studying or being trained in Russia, most notably in the last three years. See Jarabik/Rabagliati for further details.

significantly upping the level of contacts with the West, can Lukashenka effectively blackmail the Kremlin. Despite the overwhelming cultural and historical links and the common use of a Russian language, it is hard to find Russian experts who pay attention to Belarus, as can be found in Europe.

Last but not least, the EU must address the biggest contradiction in its policies and with the reality on the ground: Schengen. With the accession of Central and Eastern European EU members to the Schengen zone in December 2007, visa fees for Belarus citizens increased to €60 from as low as €5 for what was formerly a Polish visa (in the case of Latvia there was no charge at all before). Moreover, the procedures for obtaining visas have become enormously complicated. Although no data is available to confirm the drastic decrease in travel to the EU, the new and complicated procedures provide useful ammunition to anti-EU propaganda campaign; in its handling of visas, the EU seriously risks tarnishing its own image and appeal. A visa facilitation agreement is all but ruled out due to the EU's relations with the Belarusian regime, but Brussels needs to address this contradiction with imagination if it wants to avoid cutting off Belarusians.

Democracy assistance

Between 1991 and 1995 the EU provided €60million of assistance to Belarus.³³ This assistance – implemented through TACIS – was purely technical. Brussels favoured social and humanitarian projects which could be implemented in Belarus.³⁴ Serious problems arose, however, in mid-2002 when the Belarus government unilaterally discontinued compliance with the TACIS General Rules and refused to accept the tax-free status of the grants, targeting the Belarusian Helsinki Committee in particular:

After enlargement in 2004, the region quickly rose up the agenda, and the EU was pressed by member states and NGOs to hike aid from €10 million annually to around €12 million for 2005 and 2006. The extra funding was made available through grant mechanisms - which were completely new to Belarusians - independent of the authorities, namely the European Initiative for Democracy and Human Rights (EIDHR) and the so-called Decentralised Cooperation Budget Line (DC).³⁵ This division of assistance between the needs of the population, and direct support to democratisation and civil society was established at 70 to 30 per cent.³⁶

³³ See EC Assistance to Belarus 1991-2005, www.delblrec.europa.eu/page84.html

³⁴ Ibid. Humanitarian assistance for Chernobyl regions (€12.4m), cross-border (€16.5m), nuclear safety (€6.5m), justice and home affairs (€12.9m), other regional activities (€2.7m). Nevertheless, some projects focussed on institution building, economic development, development of SMEs and support for NGOs. Part of the assistance was devoted to the strengthening of democratic institutions and civil society although projects in support of democracy development, education, and awareness-raising in human rights totalled only €1.6m in 1999-2003.

³⁵ The extra €2 million has raised EIDHR assistance to Belarus to approximately €5 million in 2005-2006.

Based on the 2005-2006 allocation, one of the most significant areas of EU aid has been in supporting the media. The first pilot project with Deutsche Welle was small in terms of funding, short in terms of programming time scale, and lacked a realistic strategy to reach a wide audience. In 2006, an EIDHR media public tender valued at €2 million was subsequently won by Media Consulta, with the basics necessary for a project to provide "Window to Europe" programmes for transmission through Satellite TV RTVi and European Radio for Belarus. The impact of this project has been small. At the end of 2007, the EU awarded a grant to the Konrad Adenauer Stiftung and a Greek consultancy to increase the reach of EU communications, and especially the non-paper.

Support for civil society represents only a small part of EU assistance. Although the demand is high (based on the number of applications), most Belarus NGOs (especially those facing repression) have difficulties in submitting the application forms to required EU standards. Officials implementing the assistance programme have sometimes been slow to understand the constraints the present situation in Belarus imposes on its people. Another project is "Support to capacity building and networking of Belarusian NGOs and Local Authorities" which received €200,000 and which has built up a communication and networking platform for EU and Belarusian NGOs and local authorities.

While there is a growing realisation that larger civil society projects should be implemented through European NGOs, no specific programmes have been developed. Calls for proposals by EIDHR and so-called non-state actors are made on an ad hoc basis, although these mechanisms have introduced some flexibility (for example through allowing 'regranting'). The US government continues to be the main source of aid for civil society.

Although the change of EU mechanisms under the ENPI has brought some flexibility, the overall budget – €20 million for 2007–2010 period - clearly amounts to a decrease in the funds available. According to EU officials, the annual budget can be beefed up through the so-called thematic programs, as well as the EIDHR.

Some member states are pushing the envelope. With an annual total of approximately 20 million euros to invest, Germany is the largest international donor in Belarus. Numerous German non-governmental organisations (NGOs) work towards reconciliation in Belarus, others concentrate on developing democratic institutions and the rule of law; economic, scientific, educational and cultural co-operation are all promoted through the Belarus

³⁶ According to the new Belarus Country Strategy Paper (2007-2013) the main goals of the new financial perspectives are supporting democratization, civil society and human rights, supporting the needs of the population, and, as the third priority, cooperation with official representatives.

development programme launched in 2002, still running in 2007. There are approximately 20 German-Belarusian municipal twinning arrangements.³⁷ In addition, German political foundations are traditionally strong in Belarus. Although the Friedrich Ebert Stiftung is the only one to offer registration facilities, the most active is the Konrad Adenauer Stiftung, running its Belarus programme from Vilnius.

Swedish funds have increased, focusing on education, research, the environment, the young and those with disabilities, strengthening the media and the information society, as well as giving direct support to the EHU. Denmark provides support for democratic forces, especially within civil society and the independent media, under the Danish Neighborhood Programme. The Netherlands has funded civil society and the independent media. Currently, the small grants programme of the Warsaw-based Netherlands embassy is one of the best examples of a flexible grant-making body, and one which benefits mainly NGOs.

Despite Belarus' Baltic neighbours being the countries most concerned with its political situation, their assistance - with the exception of Lithuania - is rather insignificant. Vilnius has become the 'capital' of the democratisation effort, providing a home for the European Humanities University (EHU/in exile), the Human Rights House (in exile), US and European implementers, and has registered numerous Belarusian NGOs in Lithuania offering protection and access to EU funds. The Lithuanian government was instrumental in providing an alternative site for the EHU, and lobbied Brussels to support it. Although the Lithuanian government has been trying to engage with the Belarusian government, the assistance it offers has not been watered down as a result, and Vilnius continues to provide comprehensive assistance to aiding democracy and the rule of law in Belarusian civil society and media.

The Visegrad countries provide vital support for Belarusian democratisation, both in terms of policy and assistance. Poland is by far the biggest - and perhaps also the most controversial - supporter of Belarusian democracy. While maintaining its anti-Lukashenka rhetoric, Poland is leaning towards engagement (mainly after the Belarus-Russia energy row). Its democracy assistance efforts increased from \$6 million in 2006 to around \$10 million in 2007. The Czech Republic provides democracy assistance through the MFA; in 2007, it supported five projects in Belarus through Czech NGOs. Slovakia - the smallest Visegrad country - was the first to open its aid mechanism to Belarus. The country's biggest pro-democracy NGO, the Pontis Foundation, is also one of the most influential implementers. Hungary has just woken up to Belarus, opening an embassy at the beginning of 2008, and donating €50,000 to the EHU.

³⁷ www.auswaertiges-amt.de/diplo/en/Laenderinformationen/01-Laender/Belarus.html

Policy Conclusions and Recommendations

Since 2004 the EU interest in Belarus has increased, assistance has slightly decreased, and policy has been updated - but the EU has still not moved up a gear, which is vital if it is to keep pace with the shifting conditions on the ground brought about by the next stage in the country's transformation.

Although most analyses blame the EU for an adopting an isolationist policy, the fact is that Brussels has never slammed the door shut on Minsk. Instead it was the Lukashenka regime which limited previous EU efforts to strengthen people-to-people contact, blocking the opening of an EC Delegation in Minsk, delaying contracts or obstructing most of the proposed projects. Even today, Minsk simply defines its business with the EU in terms of "engineering and energy effectiveness, transport and transit, environmental protection, interaction of customs and border services, scientific and technical cooperation".

The EU has tried nearly everything: it suspended the PCA, excluded Belarus from the Council of Europe and the ENP, withdrew the GSP, adopted benchmarks and a step-by-step approach, promoted people-to-people contacts, and supported civil society and the media. The EU has also consistently sent out a message supporting democracy and human rights in Belarus, both clamping down on members of the repressive regime (with visa bans and asset freezing), and paying tribute to those who have struggled for democracy in Belarus. Finally, in 2006 the EU attempted to engage in direct communication with the country through its 'shadow action plan'.

Although the EU has been trying hard, its activities have largely ineffectual up to now. This can be attributed to Russia's influence, but also because pro-EU elements and structures in Belarusian society are weak. The EU must therefore concentrate its support around its closest stakeholders – independent media and civil society – where its investment is most likely to pay dividends.

At present the EU's aid and incentive packages are too half-hearted, its criticism too timid. Such low-profile pressure can scarcely be expected to lead to results in the future. The EU kid-gloves approach stands in stark contrast to Minsk, which is never afraid to get its hands dirty in carrying out a foreign policy based on blackmail and playing the same strategic game – at one moment tilting East, the next moment West - time and again. This logic is likely to deepen in the wake of the South Ossetia conflict and the EU must avoid weakening its concern with democratic reform for short-term geo-strategic gain.

The EU should focus on boosting its image in Belarus, increasing incentives for the regime and the people who live under it, and boldly investing in alternative structures. It should increase and fine-tune the targeting of its efforts, working with civil servants against a

sophisticated checklist of benchmarks, but also by offering well-selected incentives, and concentrating its financial resources where they work best - in education, the media and structures within civil society where government say-so is not required. Most of all it must increase its capacity to talk directly to the Belarusian people.

Brussels ought by now to have realised that Lukashenka needs dialogue with the EU mainly to give him more chips when he next sits down at the bargaining table with Moscow. This, like it or not, is the context in which Brussels' incentives should be understood - the regime needs increased trade with the EU, not to mention Western loans to maintain liquidity and the strength of its currency. And so the main incentives which Brussels has to play with when trying to influence the regime are still energy and investment (GSP/trade benefits, and further down the line, deep free trade and WTO accession, only once Russia becomes a member), along with a visa-free regime. Economic assistance should be implemented in well-selected ministries, the central bank as well as wisely targeted (state) companies in order to prepare the ground for cautious reform. Nevertheless, incentives should be based on firm benchmarks. As Lukashenka thinks it unlikely the EU will play hardball with him, Brussels should be prepared to surprise him with a tougher stance on carefully-chosen issues, but also with an incentives package if Minsk reacts and addresses some or any of the conditions.

The EU should bear in mind that Lukashenka may prepare the ground for his own succession, and increase efforts to foster contacts with the new generation which is quickly rising up the political pecking order. Most importantly, the EU, in combination with increased incentives, should adopt and implement a gradualist benchmark-based policy to take its general initiative to Minsk.

The EU should increase its assistance programmes, especially targeting civil society through the EIDHR and the non-state actors programme. To make assistance more effective, further reflection is needed on how the EU can provide support in a more user-friendly way. The re-channelling of grants through European NGOs should be a clear goal here, much more than the current 10 per cent 'regranting' maximum which the new EU regulations allow for. A regular call for proposals should be made and widely circulated, and an all-round training programme offered to NGOs so as to familiarise them with the EU funding available (most of them have no experience in this matter) which would help boost the capacity of the EU's extremely important partner structure to spread the European message in Belarus. Flexible civil society programmes (EIDHR and non-state actors) should continue to be run from Kiev and Brussels, for security reasons, even when the delegation in Minsk has finally opened.

The EU also has to work out what it has that is genuinely attractive to Belarusians. Repeating the mantra of "implement reforms, and we'll give you aid" is clearly not working. Part of the

EU's communication drive must address the visa issue - both its cost and the way member state embassies handle visa procedures. The EU should strongly consider developing a road map toward a visa-free regime for Belarusians for its own sake, but also as part of its incentive package toward the regime. A European network (of NGOs) should be discussed, and the EU, together with other donors, should continue supporting communication channels to get its message across more effectively in the independent media. In short, the goal for the EU should be to build a profile in the country so that 2008 is remembered as the year Europe finally arrived in Belarus.



Chapter 7

Azerbaijan¹

<Jos Boonstra >

Azerbaijan and the European Union (EU) are increasingly important to each other. The Southern Caucasus country is rich in energy and will be a connecting hub for energy transport from Central Asia into European markets. For its part, Azerbaijan is located between Russia and Iran in an unstable region ridden with conflict, making good relations with the EU imperative not only for the country's prosperity but also for its development as an independent state. But the EU's interest in Azerbaijan goes further than energy alone. The South Caucasus remains an unstable region featuring weak states, disputed non-recognised entities and war legacies; this has been thrown into sharper relief by Russia's invasion of South Ossetia in August 2008. The EU's engagement through assistance in democratic development should form the basis of strengthening security and stability.

In November 2006 the EU and Azerbaijan concluded an Action Plan (AP) within the framework of the European Neighbourhood Policy (ENP).² This document defines the relation between Brussels and Baku for the next five years and leads to a National Indicative Programme (NIP) that outlines the assistance available to Azerbaijan. The NIP states that 'in recent years Azerbaijan has been slowly (although not always coherently) pursuing an "evolutionary" reform strategy to develop democracy and a market economy'.³

In reality, Azerbaijan is moving increasingly away from democracy and better human rights standards, as an authoritarian elite tightens its grip on society while prospering from enormous energy revenues. Since 2003 Azerbaijan has been ruled by President Ilham Aliyev who succeeded his popular father Heydar Aliyev. Human rights and democratic credentials are in decline as the President and the small elite surrounding him strengthen their grip on power. Azerbaijan has not held free and fair elections since independence. The October 2008

¹ The author wishes to thank Leila Alieva, Farda Asadov and Ingrid Angela Gössinger for their reviews of an earlier version of the paper. Most of the information presented in this paper draws from interviews in Baku (February, September and November 2007) with EU member state diplomats as well as politicians and civil society representatives from Azerbaijan.

² EU / Azerbaijan Action Plan, 14 November 2006, http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf

³ European Neighbourhood and Partnership Instrument, Azerbaijan, National Indicative Programme, 2007-2010, http://ec.europa.eu/world/enp/pdf/country/enpi_nip_azerbaijan_en.pdf

presidential elections will be an important test case for Azerbaijan's relations with Europe, especially in the aftermath of the conflict in Georgia. The human rights portfolio is mostly dominated by abuses of the freedom of speech; the media is curtailed and several journalists have been jailed.

One observer argues that 'of all former Soviet republics the difference between rhetoric and reality is biggest in Azerbaijan'. Whereas human rights abuses in several Central Asian republics are far more severe, and whereas, for instance, Belarus scores clearly worse on democracy indicators, these countries are less vocal in claiming to the EU (and other international institutions such as the OSCE and NATO) that all is well.

This paper shows that in the case of Azerbaijan, the EU has, so far, prioritised energy interests over the promotion of democracy and human rights. In its fourth year of existence the ENP still amounts to little in Azerbaijan in terms of EU political aid and democracy and human rights monitoring. While many believe that the EU does not have significant leverage over Azerbaijan in meeting ENP commitments, it is argued here that firmer pressure could be usefully exerted. This is because the Union is gaining popularity among average Azerbaijanis as a model of democratic identity. On democracy and human rights Azerbaijan aims at the minimal acceptable concessions while keeping relations good. Now that the Commission has stepped up its commitment to Azerbaijan by opening a Delegation office this February and increasingly expresses concern over Azerbaijan's democratic development, policy changes might follow. But both sides remain to meet their ENP commitments. Is rhetoric on democracy and human rights still a two-way street between Baku and Brussels?

I. The state of affairs in Azerbaijan

"Some scholars look on the area south of the Caucasian mountains as belonging to Asia, while others, in view of Transcaucasia's cultural evolution, believe that this country should be considered part of Europe. It can therefore be said, my children, that it is partly your responsibility as to whether our town [Baku] should belong to progressive Europe or to reactionary Asia".

Kurban Said, *Ali and Nino*, first published in German in Vienna, 1937, current English language version, New York, 2000, 3-4.

Azerbaijan seems to be neither Europe nor Asia. The country experiences strong impulses from four sides. First, Azerbaijanis are Muslims while linguistically and culturally connected to Turkey. Second, Azerbaijan still breathes a Soviet mentality which for instance can be seen in the secular behaviour of its leadership and the majority of political parties and civil society. Third, at least double the number of the 7.5 million ethnic Azeri's in Azerbaijan live in Iran.⁴ Fourth, the country has from the early twentieth century onwards been strongly

influenced by European (and American) culture due to the world's first big oil boom that took place in Baku.

In recent years Azerbaijan's respect for democratic standards and human rights has worsened. The Aliyev leadership has strengthened its grip on power; the Milli Mejlis, Azerbaijan's Parliament has a mere rubber stamp role; the opposition is toothless; and elections are characterised by fraud and misconduct.

It is difficult to determine who wields power in Azerbaijan aside from President Ilham Aliyev. The government goes about its business in a non-transparent way and little is written on Azerbaijani power structures. Azerbaijan after independence and during the Nagorno-Karabakh war was open to different political influences and enjoyed a vibrant civil society. With Heydar Aliyev coming to power in 1993 opportunities for a genuine multiparty democracy faded and power was centralised. Some argue that power essentially is still clan and family based. The most powerful clan is from Nakhichevan, named after the region that is divided from the rest of Azerbaijan by a strip of Armenian territory. The Aliyev family is from this region and thus power in this sense is mostly family orientated instead of being exerted through clan links. The more numerous 'Western' Azerbaijanis that consist of families that had to flee Armenia during the war over Nagorno-Karabakh are also an influential group, while the Bakinetes from Baku are not a clan as such. The elites that originate from Baku and other major cities seem to have to tolerate the two other groups having more influence at their expense.

President Aliyev has manoeuvred carefully to strengthen the power base he inherited from his father. After the President, the Head of the Presidential Administration, Ramiz Mehtiev, and the Minister of the newly established Ministry of State Emergencies, Kamalddin Heydarov, are influential. The former was one of the most loyal allies of President Heydar Aliyev and rumour has it that the former President on his deathbed arranged for his son Ilham Aliyev to be President but that, de facto, Ramiz Mehtiev would govern.⁵ It is telling that the office of the Head of the Presidential administration is located above the President's office. Kamalddin Heydarov is a former head of customs and not coincidentally one of the richest people in the country. His newly established Ministry has substantial security forces at its disposal while it also wields power in the economic sphere by taking, for instance, responsibility for building contracts.⁶

⁴ Estimates of the number of the Azeri minority in Iran range between 15 and 30 million people.

⁵ After a referendum in 2002 that changed the constitution the prime minister instead of the speaker of parliament was made next in line to take up the post of president in case the latter would be incapable to govern. Ilham Aliyev became prime minister and took over from his father in 2003 during his illness. The 15 October 2003 presidential elections resulted in Ilham Aliyev succeeding his father who died two months later.

⁶ Rovshan Ismayilov, 'Azerbaijan's Emergency Ministry becomes power base', Eurasianet, 9 March 2006, <http://www.eurasianet.org/departments/insight/articles/eav030906.shtml>

Azerbaijani politics might also soon involve some new faces, since an elite of young technocrats is slowly but steadily rising to the top. Educated in Europe or the US and taking up posts in the bureaucracy on a low salary, these new talents make use of the many financial opportunities that arise in Azerbaijan. Most young talented Azerbaijanis, however, stay out of politics and stick to business. Although President Aliyev seems at present able to divide and rule, in the future, internal rivalries are more likely to lead to a change in government than is pressure from Azerbaijan's political opposition forces.

Azerbaijan clearly follows the Russian example of creating its own 'managed democracy'. Although Azerbaijani democracy can boast all the formal institutions of a mature democracy, transparency and accountability is lacking. The New Azerbaijan Party (YAP) is the main political party, lead by the President, and has 58 legislators out of 125 in the Milli Mejlis. The opposition parties that had united under the name Azadliq (Freedom)⁷ gathered 13 seats in the 2005 elections while the other 42 representatives consist of loyalists to the government and a few maverick politicians.

The November 2005 parliamentary elections took place against the backdrop of the Rose revolution in Georgia (December 2003) and the Orange revolution in Ukraine (December 2004).⁸ The Azerbaijan leadership was determined not to allow a similar democratic revolution. The Organisation for Democratic Institutions and Human Rights (ODIHR) of the OSCE reported from the elections that 'there were continued restrictions on the freedom of assembly, as well as harassment, intimidation and detentions of some candidates and their supporters'.⁹ After election day large opposition protests were put down by force. Under international pressure President Aliyev promised to democratise election procedures in the future. But so far improvements to the Electoral Code have been cosmetic.

For now the Azerbaijani people have lost their faith in elections and politics in general which for the 2008 elections will probably lead to an even lower turnout than the 46 percent that voted in the 2005 parliamentary elections. Ilham Aliyev is reasonably popular and has no serious contenders. Western diplomats have tried to convince the Azerbaijani leadership to play fair during the upcoming elections on the grounds that they will win anyway! Still, the chances of substantial improvement are limited. The President needs a high share of the vote to guarantee his leadership against growing internal divisions of power. Moreover, many local leaders will want to make sure that their district remains loyal within the Baku patronage system.

⁷ The Azadliq bloc consisted of the Popular Front Party that had briefly been in power after independence during the Nagorno-Karabakh war; the Azerbaijan Democratic Party and the historical Musavat Party that had lead the country during its brief moment of independence (1918-1920).

⁸ For a thorough assessment of the 2005 parliamentary elections and politics in Azerbaijan see Leila Alieva 'Azerbaijan's frustrating elections', *Journal of Democracy*, Vol. 17, No. 2, April 2006, 147-160.

⁹ OSCE/ODIHR Election Observation Mission Final Report, Republic of Azerbaijan Parliamentary Elections 6 November 2005 (1 February 2006), http://www.osce.org/documents/odihr/2006/02/17923_en.pdf

Opposition parties in Azerbaijan are disillusioned and weak. Their offices are tucked away in the suburbs of Baku as a result of dubious eviction procedures by the state; opposition rallies are allowed only in six places far from the city centre; and opposition parties enjoy scarce access to media outlets and have limited funding. There is no forward-looking approach as most opposition leaders still tend to look back to the 2005 rigged elections. Most parties until recently were doubtful about participating in the October 2008 elections. They give the impression that their opportunity has passed and that the current establishment has firmly entrenched itself, clinging to power with increased oil dollars and with the consent of western powers.

Civil society is marginally better off and can work in relative freedom, but is small and has limited impact; this being true especially of the more politically orientated NGOs. On 27 July 2007 the President issued a decree on setting-up a state funding mechanism for civil society organisations. NGOs had the opportunity to react to a concept paper during Baku's hot and quiet summer. Unfortunately the more critical NGOs were kept in the dark and international advice was not taken into account. Although the establishment of state funding is a positive development in principle, in practice it is likely that those NGOs close to or even established by government agencies will prosper most from this new mechanism. Moreover, the re-registration that will be obligatory will give the government closer control of civil society organisations and their activities.

In the field of human rights Azerbaijan has a poor record, with the exception of the treatment of the many small minorities. Freedom House characterised Azerbaijan in 2006 as 'not free' and indicated for 2007 a downward trend 'due to a decline in press freedom, including President Aliyev's increasingly tight grip on the media'.¹⁰ The Council of Europe – of which Azerbaijan is a member but also a subject of regular monitoring by the Parliamentary Assembly – also reported shortcomings in elections, rule of law and human rights and states that 'regrettably, instead of improving, the general environment for the independent media in Azerbaijan has since [2006] deteriorated'.¹¹ All four national Azerbaijani TV stations are pro-government and, whereas a decade ago Azerbaijan could boast 30 independent small newspapers, today only five remain. An increasing number of arrests of journalists have been made and harsh jail sentences set; mostly on the grounds of defamation but also for 'hooliganism' or through 'set-up' crimes. Despite the President occasionally declaring an amnesty for the press, the intensity of harassment of opposition media has clearly intensified.

The President is perceived by many people to be above politics and working for the good of the nation. Over seventy percent of the Azerbaijani population 'fully trust' the President

¹⁰ Freedom House, *Freedom in the world, Azerbaijan 2007*, http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2007&country=7129&pf

¹¹ Resolution 1545, April 2007, Parliamentary Assembly of the Council of Europe, Honouring of obligations and commitments by Azerbaijan, <http://assembly.coe.int/documents/adoptedtext/ta07/eres1545.htm>

whereas other institutions such as Parliament, the Cabinet of Ministers, political parties and municipalities score below 17 per cent on trust, with the exception of the Armed Forces that score almost 40 per cent.¹² However, public support percentages read from polls should not be taken as hard facts. While criticism of state agencies is to some extent possible, there is a taboo on criticising the President (or his family). Serious consequences in doing so cannot be ruled out. This strong position gives Ilham Aliyev the possibility to abstain from taking a decisive stand on sensitive issues such as democratic reform. And where human rights violations take place he is able to blame ill-performing state agencies. If positive change is going to commence it is most likely to start top-down with the President using his stature and political weight.

2. Intervening factors

“Look here, Iljas Beg”, I said and took him to the map, “our natural allies should be Turkey and Persia. But now they are both powerless. We’re hanging in mid-air, and from the north one hundred and sixty million Russians are pressing down on us, thirsting for our oil. As long as the English are here, no Russian, Red or White, dares to cross our borders. But once the English have left there’s just you and me, and our few regiments to defend our country”.

Ali and Nino, 264.

In a complex geopolitical context, Azerbaijan has sought to balance the competing power of its different neighbours.¹³ In geostrategic terms, two issues predominate.

First, energy. Azerbaijan has proven oil reserves of 7 billion barrels and exported 24.7 million tonnes of oil in 2006. Its gas reserves are estimated at 1.37 trillion cubic metres and exports in 2007 are estimated at 1.7 billion cubic metres.¹⁴ The Baku-Tbilisi-Ceyhan (BTC) oil-pipeline in which British Petroleum has a large share became fully operational in mid 2006, pumping oil to the Turkish harbour of Ceyhan from where oil tankers bring the oil to EU countries and elsewhere. The Baku-Tbilisi-Erzurum (BTE) gas pipeline that follows roughly the same route delivering gas from Azerbaijan’s Shah Deniz field to Turkey became operational in early 2007 and will transform Azerbaijan from a net gas importer to a substantial exporter. As soon as Azerbaijan is able to transport Central Asian gas through an envisaged Transcaspian pipeline (TCP) and to transport oil from Kazakhstan and Turkmenistan through the Caspian Sea to connect to the BTC and BTE lines profits are likely further to increase.

¹² R. Musabayov and R. Shulman (eds), *Azerbaijan in 2006, Sociological Monitoring* (Baku 2007), p. 16.

¹³ For an in-depth overview of the Southern Caucasus, Azerbaijan and foreign policy see: Elkhan Nuriyev, *The South Caucasus at the Crossroads. Conflicts, Caspian Oil and Great Power Politics* (Berlin 2007), 261–334; and C.W. Blandy, ‘Azerbaijan: Permanently between Scylla and Charybdis?’, *Conflict Studies Research Centre, Caucasus Series*, August 2006.

¹⁴ Ingilab Ahmadov, ‘Energy opportunities of Azerbaijan: What kind of sustainability we want?’, presentation at the seminar *The EU Strategy for Central Asia: Promoting democracy and human rights*, FRIDE seminar, Madrid, 19 November 2007.

Skyrocketing economic growth is estimated to triple the national budget within four years to an expected 12 billion dollars in 2008. Azerbaijan is currently the fastest growing economy in the world with GDP growth rates of 26 percent in 2006 and an expected 34 percent in 2007.¹⁵ This growth is mostly the result of increased energy prices and the opening of the two pipelines. This energy transport network to Europe over ex-Soviet territory is the first to bypass Russia and is of immense strategic importance to Azerbaijan, Georgia, Turkey and the EU. The Azerbaijani economy is likely to grow further in the coming years, but is foreseen to reach its peak in 2012, from when Azerbaijani oil reserves are set to decline and the transport of Central Asian energy will increasingly replace the income from national production.¹⁶

However impressive its current growth rates the Azerbaijani economy has become even more dependent on energy. Until now the state has not invested significantly in other sectors of the economy, such as agriculture in which a large share of the population makes its living, even though only an extremely small part of the Azerbaijani workforce is active in the energy industry. If and when revenues do peak in 2011-2012, government spending will decline.¹⁷ The country shows all the classic symptoms of Dutch disease, as sharp increases of energy revenues have pushed up the exchange rate resulting in other industries becoming less competitive. To counter these problems the State Oil Fund (SOFAZ) was established in 1999 with the stated aim to preserve revenues for future generations; oil incomes above the budgeted oil price of 35 dollars are transferred into the fund,¹⁸ which totalled 2.2 billion dollars in October 2007.¹⁹ As oil wealth has grown, corruption has deepened. Transparency International ranks the country 130th out of 163 countries.²⁰ Although some anti-corruption laws have been introduced in recent years there is no follow-up in implementation. The feudal system of exercising power and distributing wealth serves the elite well. Little oil revenue trickles down to the average population.

The second factor of international concern is the Nagorno-Karabakh conflict. The war between Armenia and Azerbaijan over Nagorno-Karabakh – a region within Azerbaijan that is mainly populated by Armenians – started after the collapse of the Soviet Union and caused over 25,000 deaths. Armenia captured Nagorno-Karabakh and seven surrounding provinces – 14 percent of Azerbaijan's territory – and over 200,000 Azerbaijanis fled from Armenia and over half a million Azerbaijanis from Nagorno-Karabakh and occupied territory became IDPs.²¹ Since a ceasefire in 1994 was signed Nagorno-Karabakh has developed as a de facto independent state with support from Armenia.

¹⁵ Fariz Ismailzade, 'Azerbaijan's growing economic capacity has yet to affect Karabakh resolution', Jamestown Foundation, Vol. 4, No. 188, 11 October 2007.

¹⁶ 'Nagorno-Karabakh: Risking war', International Crisis Group, Europe Report No 187, 14 November 2007, p.8.

¹⁷ *Ibidem*, 9.

¹⁸ 'European Neighbourhood Policy: Economic Review of EU Neighbour Countries', European Economy Occasional Papers, No. 30, June 2007, p.75, http://ec.europa.eu/economy_finance/publications/occasional_papers/2007/ocp30en.pdf

¹⁹ Ingilab Ahmadov, 'Energy opportunities of Azerbaijan: What kind of sustainability we want?', Madrid, 19 November 2007.

²⁰ Transparency International, Annual Report 2006, Corruption Perceptions Index 2006, p.21.

²¹ 'Assessment of the IDP situation in Azerbaijan and cooperation mechanisms in place to address their needs', Report by the UNHCR-OCHA Mission to the Republic of Azerbaijan (March 2005), <http://www.unhcr.org/publ/RSDLEGAL/442d369d4.pdf>

Although the conflict is characterised as 'frozen', incidents take place on a regular basis with snipers killing dozens of soldiers of each side every year. The conflict partly defines Azerbaijani society. Azerbaijan is frustrated with the loss of Nagorno-Karabakh and other territory that is used by Armenia as a bargaining chip in the negotiations. Armenia is the common enemy in Azerbaijan and internal differences of opinion over the issue do not exist; indeed, the opposition is often tougher on Nagorno-Karabakh than the government.

Negotiations through the OSCE Minsk format in which France, Russia and the US mediate between the two rivals have led to almost no progress. Azerbaijanis have the feeling they were mistreated by the international community after the conflict mainly because all three mediators are Christian countries and are perceived to be pro-Armenian. Baku offers the highest level of autonomy existing in the world but argues its territorial integrity should be respected while Armenian arguments are based on the right of self-determination. Discussions on a possible referendum on Nagorno-Karabakh's status become bogged down because Armenia argues that only the people of Nagorno-Karabakh should have the right to vote on their future while Baku demands that a referendum should take place in the whole of Azerbaijan. During the OSCE Ministerial in Madrid in November 2007 the three mediators presented Basic Principles of a Peaceful Settlement, but the two sides could not reach agreement. In light of the August 2008 conflict in Georgia, the West is likely to attach greater priority to maintaining a stability-oriented partnership with Baku.

Azerbaijan's economic growth has led to the defence budget tripling over the last three years to 1.1 billion dollars.²² President Aliyev has stated that Azerbaijan's defence budget should match Armenia's state budget in order to take the region back by force if necessary. An immediate outbreak of war is unlikely but a sequence of more intense and frequent incidents could lead to the worst. An attack from Azerbaijan on Armenian positions in Nagorno-Karabakh would probably bring Russia into the fight due to its military presence and Turkey might also intervene, which could lead to a standoff between NATO and Russia. Moreover, a renewed war would open a new Islam-Christian front possibly attracting fundamentalists.

Essentially the Azerbaijan government has a keen interest in maintaining the status quo. First, a renewed war would put energy exports at serious risk – the BTC and BTE pipelines are close to Nagorno-Karabakh. Second, Azerbaijan would lose its argument of being the victim of Armenian aggression. Third, the government would no longer be able to use Nagorno-Karabakh as a pretence for not implementing democratic reforms. Most debates on politics in Azerbaijan eventually lead back to Nagorno-Karabakh. In this sense it is no coincidence that

²² 'Nagorno-Karabakh: Risking War', International Crisis Group, Europe Report No. 187, 14 November 2007, p.12.

the issue is also crucial to EU-Azerbaijan relations and is priority number one in the ENP Action Plan. At the time of this writing, the EU is just beginning to map out a response to the South Ossetia conflict, but it must be likely that the new context will further militate against European pressure on Aliyev for democratic reform.

3. European democracy and human rights promotion

“There is a low divan, two small stools inlaid with mother-of pearl, many soft cushions, and among all this, very disturbing and very unnecessary, books of Western knowledge: chemistry, physics, trigonometry – foolish stuff, invented by barbarians, to create the impression that they are civilised. I closed the books and went up to the flat roof of the house. From there I could see my world, the massive wall of the town’s fortress and the ruins of the palace, Arab inscriptions at the gate”.

Ali and Nino, 8.

In 1999 the EU and Azerbaijan signed a Partnership and Cooperation Agreement (PCA) that remains the legal framework for relations, additionally with the Action Plan in place.²³ During the 1990s the focus was on basic assistance. EU assistance from 1992 to 2004 amounted to 400 million euros, mainly provided through the Technical Assistance programme (TACIS), the Food Security Programme and humanitarian assistance, food aid and rehabilitation of war damaged areas.²⁴ Over this period there was little focus on or assistance for democratisation or the promotion of human rights. There were indirect efforts through TACIS projects that aimed at institutional reform support of Azerbaijani structures but these were limited and assessed as not having much impact. There were also a few financing agreements between the European Commission and other international organisations active in Azerbaijan such as the Council of Europe, OSCE and the International Labour Organisation (ILO). Although the PCA formally stresses the importance of democratic reform and respect for human rights, Brussels gave little substance to directly supporting these structures.

Some assistance was provided by EU member states’ national programmes (foremost Germany, Sweden and the UK) and a few expressions of concern were forthcoming over flawed elections and occasionally noting human rights violations. In essence democratisation and human rights issues were considered to be more the Council of Europe and OSCE’s responsibility – indeed, today many in Azerbaijan associated the latter two with human rights issues and the EU with economic interests.

²³ Partnership and Co-operation Agreement between the EU and Azerbaijan, 1 July 1999, http://ec.europa.eu/external_relations/ceeca/pca/pca_azerbaijan.pdf

²⁴ Commission Staff Working paper, ‘European Neighbourhood Policy’, Country Report Azerbaijan, Brussels, 2 March 2005, pp.3-4, http://ec.europa.eu/world/enp/pdf/country/azerbaijan_country_report_2005_en.pdf

In 2003 the EU Council appointed a Special Representative for the Southern Caucasus. In addition to his involvement in trying to solve the 'frozen' conflicts, the EUSR is charged with assisting the three countries 'in carrying out political and economic reforms, notably in the fields of rule of law, democratisation, human rights, good governance, development and poverty reduction'.²⁵ EUSR Peter Semneby in his three 2007 visits to Baku is said to have clearly expressed the EU's concerns over the lack of media freedom, including harassment of journalists. His contribution is mainly of a political nature, whereas the Commission's role is more donor and assistance driven. However, for years the Commission lacked a Delegation office in Baku (one opened on 4 February 2008). The so-called Europe House had in the meantime fulfilled some of the functions of a proper Commission Representation. It facilitated contacts between EU officials and political parties and civil society, mainly with the National Public Committee on Euro-Integration which is an NGO aimed at promoting EU integration and monitoring the Action Plan's implementation. The Europe House had a mere co-ordinating role while the fully-fledged Delegation office, lead by Alan Waddams, will have a diplomatic status and a budget to work with in distributing ENPI funding in Azerbaijan.

Although an ENP Action Plan was concluded in November 2006, actual implementation of democracy and human rights assistance has largely yet to commence. The lack of a Delegation office and earlier delays in signing the National Indicative Programme (NIP), at the time of writing, had rendered the ENP in Azerbaijan to not much more than a political programme based on rhetorical commitments of values from both sides. As a start a few calls for proposals were recently placed through the Europe House web site (the Commission Delegation web site is not up and running at this point) and a training exercise started for local NGOs on project cycle management. The Action Plan outlines ten priorities; after the first priority of finding a peaceful solution to Nagorno-Karabakh, the following two are of particular interest here. The second one is 'to strengthen democracy in the country, including fair and transparent electoral process, in line with international requirements'. Priority three aims 'to strengthen the protection of human rights and of fundamental freedoms and of the rule of law, in compliance with international commitments of Azerbaijan'.²⁶ These are some of the core goals on which the EU and Azerbaijan elaborate further in detail in the Country Strategy Paper (2008-2013) and the National Indicative Programme (2007-2010).²⁷

²⁵ Council Joint Action 2007/111/CFSP, 15 February 2007, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_046/l_04620070216en00750078.pdf

²⁶ EU / Azerbaijan Action Plan, 4, http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf

²⁷ The Country Strategy Paper (2007-2013) is a full overview of European Commission assistance priorities encompassing all instruments and programmes, and is based on the ten priorities of the Action Plan. The National Indicative Programme (2007-2010) is more detailed and aimed at planning and project identification by defining three priority areas: (i) democratic development and good governance; (ii) socio-economic reform, fight against poverty and administrative capacity building; and (iii) support for legislative and economic reforms in the transport, energy and environmental sectors. Together the two documents constitute the European Neighbourhood and Partnership Instrument (ENPI) in the case of Azerbaijan.

Although the EU promoted broad involvement of civil societies in the drafting of the Action Plans, the process was not transparent in the case of Azerbaijan. Civil society had organised itself into a Non-Governmental Committee (ANCEI) that included 39 actors ranging from businessmen to NGO activists. While the government welcomed this initiative no copies of draft Action Plans were distributed to the Committee.²⁸ During the negotiations the government pushed for WTO entrance and for prioritising Nagorno-Karabakh issues, while the EU tried to strike a balance taking the Action Plans with Azerbaijan's neighbours into account. Because government circles considered the document to be an expression of co-operation and good relations between the EU and Azerbaijan, not much importance was attached to the implications of signing up to the many human rights and democracy commitments. The negotiations on the National Indicative Programme were more troublesome. The EU wanted to focus on democracy and human rights programmes while the Azerbaijani authorities would have liked to see a further emphasis on energy programmes and Nagorno-Karabakh.

Energy co-operation is an important part of the ENP and Action Plan. The EU has sought to partially separate its energy interests from democracy and human rights aspects by concluding a separate Memorandum of Understanding on Energy with Azerbaijan. Most commentators in Azerbaijan argue that the 'energy comes first' principle applies strongly to EU-Azerbaijan relations, and indeed, co-operation on energy is flourishing. From the modest resources allocated to bilateral programmes with Azerbaijan under the ENPI one third of the 92 million euros (2007-2010) is earmarked for energy, transport and environment; the same as that reserved for democracy and good governance.²⁹ Although it is difficult to determine exactly the size of EU funds available under the energy header, in more general regional and cross-border programmes it is recognised that these dwarf democratisation or human rights programmes such as those supported through the European Instrument for Democracy and Human Rights (EIDHR). During the Commission's flagship ENP conference in Brussels that gathered both policy-makers from EU and ENP countries as well as civil society representatives, Azerbaijan was praised for its constructive attitude in energy co-operation while little was said about the lack of progress made in democratic reforms.

²⁸ Leila Alieva, 'EU and the South Caucasus', Centre for Applied Policy Research, December 2006, pp.10-11, http://www.cap.lmu.de/download/2006/2006_Alieva.pdf

²⁹ European Neighbourhood and Partnership Instrument, Azerbaijan, National Indicative Programme, 2007-2010, http://ec.europa.eu/world/enp/pdf/country/enpi_nip_azerbaijan_en.pdf

4. Does the EU have any leverage over Azerbaijan?

"In any case I'll admit that your country is just as ripe for independence as, shall we say, the Republics of Central America. I think our Government [British] will soon recognise your state."

Ali and Nino, 254.

During the EU-Azerbaijan Co-operation Council meeting in October 2007 the EU warned the Azerbaijan authorities that the upcoming Presidential elections should fully comply with international standards.³⁰ One month later the Portuguese EU Council Presidency expressed its grave concern over the sentencing of journalist Eynulla Fatullayev to eight and a half years imprisonment and stated that this inappropriate use of the criminal code counters commitments undertaken by Azerbaijan in the AP and will hinder the deepening of relations with the European Union.³¹ And this year's Commission ENP progress report on Azerbaijan stated that 'the Azerbaijani government has not exploited the opportunities offered by the ENP Action Plan to carry out political and economic reforms in the country, in areas such as democracy, rule of law (particularly reform of the judiciary and fight against corruption), human rights and fundamental freedoms, sustainable economic development and the business environment'.³²

The EU has only once taken direct punitive action against Azerbaijan by suspending the Food Security programme for a short period of time but EU officials do not exclude the possibility of future sanctions should the media freedom situation not improve or if the elections do not show any improvement.

Brussels has both positive and negative conditionality instruments at its disposal in the ENP. The EU and Azerbaijan have stated in the AP that 'any breach to these norms and principles [common values and support for effective implementation of political, economic and institutional reforms] by either party to the Action Plan will result in the immediate suspension of its implementation'.³³

Of course EC country reports and public statements can be used in both senses. Next to praise and blame, Brussels has introduced a new positive conditionality mechanism; the Governance Facility. Under this mechanism one or two ENP countries that perform well in good governance reform, including democratisation and respect for human rights, are to be

³⁰ EU-Azerbaijan cooperation council, 8th meeting, Luxembourg, 16 October 2007, press release, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/96557.pdf

³¹ Declaration by the Presidency on behalf of the EU on the conviction of Eynulla Fatullayev in Azerbaijan, 7 November 2007, http://www.eu2007.pt/UE/vEN/Noticias_Documentos/Declaracoes_PESC/20071107pescazerb.htm

³² Commission staff working document, Implementation of the European Neighbourhood Policy in 2007, Progress Report Azerbaijan, 3 April 2008, p.2, http://ec.europa.eu/world/enp/pdf/progress2008/sec08_391_en.pdf

³³ EU / Azerbaijan Action Plan (14 November 2006), p.1, http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf

rewarded with additional aid.³⁴ Prize winners by themselves can largely determine what to spend the money on as long as there is a link with good governance. Logic would argue that it is unlikely that Azerbaijan would be granted funds under this positive conditionality mechanism: first, because progress in good governance is lacking and the EU has indicated on several occasions that Azerbaijan should decentralise its institutions; and second, Azerbaijan's energy wealth and budget growth do not indicate a need for financial support. Of course the EU has the possibility to apply negative conditionality through suspending funding. Although this might have effect in some ENP countries, it is unlikely to impress Azerbaijan.

Opinions differ over whether the EU has any leverage over Azerbaijan and if so, if it is willing to use it through conditionality. Those who argue that Brussels is broken-winged in influencing Azerbaijan to move on the democracy and human rights reform front argue that energy revenues and Europe's thirst for oil and gas make leverage non-existent. The Azerbaijan government concluded the AP as an expression of good relations in building further economic ties and political co-operation. ENP budget support to Azerbaijan that will amount to roughly 15 million euros a year is no incentive taking the rising state budget into account; this amount of aid is equivalent to the revenues of about one afternoon of pumping oil through the BTC oil pipeline! Also the EU is lacking the carrot of membership of the European Union. Not only because Brussels is unable to offer a concrete membership perspective to Caucasus countries but also because Azerbaijan has no designs beyond the ENP.

There are three arguments that claim differently. First, most importantly, Azerbaijan needs good relations with the EU. Aside from a brief independent interlude, throughout history the country has been ruled mostly from Teheran and later Moscow.³⁵ Azerbaijanis want to strengthen their national identity and do not take their sovereignty for granted. With regional powers Iran and Russia surrounding Azerbaijan, good ties with the EU and US are imperative. A loss of partnership with Europe would weaken Azerbaijan's position on Nagorno-Karabakh as well as strengthen Russian influence over the country's energy industry. Second, while the EU's energy security interests are increasingly highlighted interdependence has also increased. Azerbaijan needs the technological know-how of European countries – foremost British Petroleum – but is also largely dependent on energy exports through the BTC and BTE pipelines. Last, even if Azerbaijan might not feel inclined to do best of all ENP countries on democracy and human rights it will want at least to equal its performance with that of Armenia. Classifications where Armenia is characterised as 'willing' and Azerbaijan as a 'passive' ENP partner do not go down well in Baku.³⁶

³⁴ Principles for the Implementation of a Governance Facility under ENPI, http://ec.europa.eu/world/enp/pdf/governance_facility_en.pdf

³⁵ After the Russian revolution Azerbaijan enjoyed a few years of independence (1918-1920) in which it formed the first parliamentary democracy in a Muslim country. Independence was lost during the Russian civil war and Azerbaijan became one of the USSR republics.

³⁶ Michael Emerson, Gergana Noutcheva and Nicu Popescu, 'European neighbourhood Policy Two Years on: Time indeed for an 'ENP plus'', CEPS Policy Brief, No. 126, March 2007, p.24.

While financial ENP incentives do not exert significant leverage, public statements by EU institutions and member states might have an effect. The EU should definitely make more use of this in both positive and negative senses. Concerted statements with the Council of Europe, OSCE and NATO on Azerbaijan's failure to comply with the commitments on democracy and human rights – that are roughly equal in all four organisations where Azerbaijan is either a member or part of a co-operation programme – would help bring pressure to bear. With democracy further backsliding and gross human rights violations occurring, more serious steps could be taken, such as measures that would hit at Azerbaijan's leading politicians and businessmen. Still, the EU should be cautious in using harsher methods. For instance blocking Azerbaijan's entry into WTO seems effective at first sight but could turn out to be counter-productive. The Azerbaijani leadership can do without the WTO, because membership would undermine the established monopolies; withholding membership might end up harming the reform-minded in Azerbaijan.

So far the EU has not shown any willingness to contemplate such measures. Worries over the expected conduct of the 2008 Presidential elections or curtailing of media are mostly expressed in private conversations with Azerbaijani officials although Brussels has of lately been more vocal in reminding the authorities to the commitments they undertook in the AP.

5. Social impact of the Neighbourhood Policy

“Oh yes. We are centuries ahead [of Persia]. You must remember that we have an enormous amount of industry here, and a railway. Unfortunately the Russian administration has suppressed our cultural revolution. We have not enough doctors and teachers. But I hear the Government plans to send gifted young people to Europe, to learn there what they have missed under the Russian yoke”.

Ali and Nino, 254.

Despite Azerbaijan's insistence on wanting deeper relations with the EU, in practice more general engagement and socialisation mechanisms have proved difficult to set in motion, mainly as a result of Azerbaijan's heavily centralised structures. Because Azerbaijan finds itself in the first years of booming economic growth it has given little thought to the need for future integration into European markets. Whereas the opposition and most politically orientated civil society organisations have made EU integration a priority, the government remains vague on the issue. Although it sees good relations with Europe as important little evidence points in the direction of making future integration a real priority.

EU socialisation through education, culture and trade has to compete with influence from Russia and Turkey. The latter is Azerbaijan's strongest ally and plays an influential role from a

cultural point of view. The NATO member and EU candidate fully supports Baku against Armenia over Nagorno-Karabakh and has an important stake in energy transport from Azerbaijan. Over 80 per cent of Azerbaijanis rank Turkey as 'friendly' towards their country, followed by a mere 18 per cent for Russia.³⁷ Nonetheless, Azerbaijan's northern neighbour still plays an important role in Azerbaijan that goes beyond energy interests. Aside from tensions over Russia's support for Armenia over Nagorno-Karabakh, the two countries have been able to build pragmatic and productive relations; Russian investment in Azerbaijan is substantial while Azerbaijan's second source of income derives from almost two million Azerbaijanis working in Russia who send their earnings home every month. As long as Azerbaijan follows Russia's example of a managed democracy and Azerbaijan's ties with the EU and NATO do not become as warm as Georgia's, Russia regards Azerbaijan as an important partner in which Soviet links and heritage remain a powerful tool of socialisation.

However, EU influence is rising. The Neighbourhood Policy is likely to have some effect in promoting the EU among the Azerbaijani population. When asked with which organisation should Azerbaijan strengthen contacts and integration, over 43 per cent of the respondents mentioned the EU, whereas one year earlier only 27 per cent favoured the EU. Meanwhile the Commonwealth of Independent States (CIS) and NATO saw declining figures from 2004 to December 2006 down to, respectively, 15.5 per cent and 6.7 per cent.³⁸ It seems that the Azerbaijani government and NATO have failed in bringing the benefits across of NATO's Individual Partnership Action Plan (IPAP) – NATO's version of the EU's AP – while the benefits of increasing co-operation with the EU were apparent to ordinary people. Active engagement by civil society in debating and publicly addressing EU-Azerbaijan issues certainly helped, including in pushing the government to at least include some mention of EU membership aspirations in the AP.

Azerbaijan may not yet concretely seek integration but it is definitely looking westwards, as it did at the turn of the nineteenth century when the first oil boom hit Azerbaijan. Russia and US influence in the country is stable while interest in the EU is growing. Most well-off families send their children to west European universities and a class of European educated technocrats and businessmen is slowly replacing the aging Soviet legacy bureaucrats. The EU has aimed to play an active role in education reform. The Tempus programme has implemented several co-operation projects in Azerbaijan from 1996 onwards aimed at curriculum development and university management.³⁹ The EU now will also include Azerbaijan in its new Erasmus Mundus External Co-operation Window providing small grants

³⁷ The EU is not mentioned here, but EU member states are. R. Musabayov and R. Shulman (eds), *Azerbaijan in 2006, Sociological Monitoring* (Baku 2007), p.28.

³⁸ R. Musabayov and R. Shulman (eds), *Azerbaijan in 2006, Sociological Monitoring* (Baku 2007), p.32.

³⁹ European Neighbourhood and Partnership Instrument, Azerbaijan, Country Strategy Paper, 2007-2013, p.16, http://ec.europa.eu/world/enp/pdf/country/enpi_csp_azerbaijan_en.pdf

to students and academic staff. These projects are important for Azerbaijan since they give an opportunity to the less wealthy to study in EU universities; the budget is however limited to three million euros a year for all three Southern Caucasus countries.⁴⁰

In addition to education the EU focuses on other priorities that can indirectly contribute to democratisation of Azerbaijan. In the National Indicative Programme that deals with bilateral assistance, one of the three priorities focuses on support for socio-economic reform. Here there is room for bilateral projects on, for instance, customs regulations (that might help to counter corruption) and modernising Azerbaijan's bureaucracy including pension and insurance systems. An important part of this approach to socio-economic reform will be devoted to strengthening the non-oil sector through economic projects in Azerbaijan's provinces away from Baku. It will be crucial for the ENP to design projects that are locally owned and can be implemented in a decentralised way by local authorities.

The Azerbaijani leadership will be more inclined to work effectively on economic and social projects than on the more direct forms of democratisation such as parliamentary support or an overhaul of the Election Code. As long as central power structures remain untouched reform is endorsed and sometimes encouraged. During negotiations on the NIP Azerbaijan pushed for more education programmes instead of emphasising democracy and human rights directly. If transparency and accountability in (local) governance is regarded as a cornerstone of democratisation it will be precisely 'indirect' democratisation projects that are likely to offer long-term impact. The new ENPI mechanisms (that are only now being launched in practice in Azerbaijan) will increase 'twinning' programmes between a host of different ministries with such an aim in mind.

⁴⁰ Erasmus Mundus External Co-operation Window (EM ECW), Academic year 2007-2008, http://eacea.ec.europa.eu/extcoop/call/documents/ext_coop.pdf

6. Democracy and human rights assistance

“There is one thing I cannot understand about the Christians. They have the best weapons, the best soldiers and the best factories, in which they produce everything they need to conquer their enemies. Every man who invents something to kill other people easily, quickly and in as great numbers as possible is highly praised, he makes much money and a decoration is bestowed on him. That is good and right. War must be. But on the other hand the Europeans build many hospitals, and a man who during a war cures and feeds enemy soldiers is also praised and decorated”.

Ali and Nino, 15-16.

Until early 2008 no substantial support was provided through the ENP on democratisation programmes or in improving Azerbaijan’s human rights record. In 2007 the Special Envoy of the Commission to Baku is said to have tried to get some funding from Brussels to support civil society work but was denied. Lacking a Commission Delegation made it impossible to provide micro-project funding for NGOs through the European Instrument for Democracy and Human Rights (EIDHR), while civil societies in neighbouring Armenia and Georgia could apply for such funding.

Some new programmes have started under the ENPI but serious implementation of EU assistance in Azerbaijan is set to kick in during the second half of 2008. EIDHR funding will only start now to become available with almost one million euros allocated for civil society initiatives over 2007 (with a deadline for proposals in April 2008). This year another million euros will be tendered. Almost equal amounts over both years will be channelled through the new ‘Non-State Actors and Local Authorities in Development’ programme.

The NIP allocates 92 million euros to Azerbaijan over the period 2007-2010. This funding is bilaterally agreed and excludes substantial funds for regional programmes and horizontal thematic mechanisms that work through proposal calls such as EIDHR, the new ‘Non-State Actors and Local Authorities in Development’ programme and limited efforts in the Technical Assistance Information Exchange Unit (TAIEX). The 92 million euros consists essentially of direct budget support and twinning.⁴¹ Currently Azerbaijan and member states are setting-up several twinning projects that will be beneficial to Azerbaijan’s judiciary and other institutions. In the twinning projects EU member states offer Azerbaijani government officials expertise in adapting regulations and rules to the EU standards of administration. These capacity-building projects hopefully will be beneficial to the EU’s efforts to promote good governance, strengthen the rule of law and curtail corruption.

⁴¹ In 2007 the National Indicative Programme consisted of €19 million of bilateral support. Of this amount €14 million is direct budget support (on energy) and €5 million was reserved for twinning projects.

The bilateral funds allocated to Azerbaijan are modest compared to many other ENP countries such as Morocco (632 million euros). Whereas Azerbaijan is more populous than Armenia and Georgia taken together each of these countries receives more funding.⁴² The 92 million euros for four years will be split in three ways according to priority areas of which the first is 'democratic development and good governance'.⁴³ Under this header the NIP outlines sub-priorities such as public administration reform; rule of law and juridical reform; human rights, civil society development and local government; and education, science and people-to-people contacts. The detailed lists of long-term impacts, specific objectives and expected results is ambitious taking into account that 92 million euros over four years is not much and that Azerbaijan's commitment to reform has been almost non-existent. So far there has been some activity in support of Azerbaijan's judiciary but other sectors connected to democratisation, such as assistance to Parliament, local governance and security sector reform programmes, are mostly untouched areas for the EU.

More than half of the allocated funds for Azerbaijan will be provided through direct budget support, about 14-15 million euros a year. Each year the focus is on a different priority; in 2007 energy and this year justice, probably followed by agriculture. Azerbaijan's National Coordinating Unit (NCU) for EU technical assistance is the main state body for cooperation with Brussels and the internal coordination of the funds. The level of aid is negligible compared to the Azerbaijani state budget and is not regarded as a real incentive. Although Azerbaijani authorities each year have to meet several benchmarks, it is unlikely that direct budget support will be blocked, leaving many Baku-based diplomats wondering why the EU still invests money in the 'corruption machine', as the Azerbaijani bureaucracy is often characterised, when the ENPI is a new funding mechanism that could redirect aid.

The reasons are several. One is that the European Council decided that direct budget support should be granted under ENP, and if poor countries like Armenia and Moldova receive budget support Azerbaijan should too; this despite the emphasis the EU places on the principle of differentiation in the neighbourhood policy. Also direct budget support is now judged to be more efficient than TACIS aid. Moreover, the Commission does not seem to have enough expert staff to allocate funds to specific projects, so instead it asks ENP country governments to do this themselves. The EU merely hopes that ENP countries co-fund reform programmes as a way of demonstrating democratic commitment.⁴⁴

Other international donors have been more supportive of direct democracy support and concrete human rights programmes. From a financial point of view US assistance through

⁴² ENPI Funding 2007-2013, http://ec.europa.eu/world/enp/pdf/country/0703_enpi_figures_en.pdf

⁴³ European Neighbourhood and Partnership Instrument, Azerbaijan, National Indicative Programme, 2007-2010, 5, http://ec.europa.eu/world/enp/pdf/country/enpi_nip_azerbaijan_en.pdf

⁴⁴ *Ibidem*, 20.

USAID is substantive but declining. Still over 10 million dollars were spent on democracy and good governance in 2007; a large part of which went to civil society and political party support.⁴⁵ Norway is another important donor in the democracy and human rights field in Azerbaijan while the OSCE and Council of Europe offices in Baku are also active, though on smaller budgets. The Open Society Institute in Azerbaijan is mostly known for its funding to civil society, the media and energy revenue transparency initiatives.

Among the EU member states Germany, Sweden and the United Kingdom are the most active member states present in providing grants, but also in monitoring progress – or rather decline – in democratisation and human rights. German democracy funding is likely to increase with more German *Stiftungen* setting-up a presence in Baku while the UK focuses on small Embassy grants, roughly 150,000 euros a year, and finances a parliamentary support programme that is welcomed by legislators but resisted by the parliament's bureaucracy. New member states such as Poland have limited funding available but are beginning to support small media and civil society projects. EU member countries with a presence in Baku have their own policies that exist independently and also are not based on ENP priorities. Every 6 to 8 weeks the main players in democracy and human rights monitoring and support (EU countries present, US, Norway, Turkey, Council of Europe and the OSCE) meet to coordinate their efforts, especially on media freedom and reforms to the Election Code. The EU members hope that a Commission Delegation will take over this function in due time.

It is too early to assess whether the ENPI is an improvement on earlier assistance schemes, including TACIS. Also it is unclear how the EU will go about democracy and human rights assistance in practice in the coming years. At this point EU democracy assistance and funding of human rights programmes can only improve and so should increased coordination by the EU of the activities of the member states.

7. Moving from rhetoric to substance

In some respects Azerbaijan's relation towards Europe has changed little over the last hundred years. Kurban Said's famous love story of the Asian-orientated Azerbaijani boy Ali and the 'European' Georgian girl Nino, situated in Baku in the first quarter of the 19th century could easily be situated in today's Azerbaijan.⁴⁶ The neither-Europe-nor-Asia country looks westwards while nurturing its Asiatic roots and watching Russia in the north with some suspicion. Kurban Said's story described European relations with Azerbaijan as based on an

⁴⁵ USAID budget Azerbaijan, <http://www.usaid.gov/policy/budget/cbj2007/ee/az.html>

⁴⁶ Kurban Said, *Ali and Nino*, first published in German in Vienna, 1937, current English language version, New York, 2000.

interest in oil resources that brought with it European culture – a situation that finds resonance again today.

Whether Europe's growing interest in and engagement with Azerbaijan involves a serious commitment to promote democracy and human rights remains open to doubt. This is disappointing because the EU's interest in security, stability and energy trade with Azerbaijan should also include a practical effort to help to establish a stable Azerbaijani democracy on the EU's borders, the ostensible objective of ENP. Although the EU has become an important player in Azerbaijan it has provided almost no support for non-state actors while government-focused assistance for good governance and improvements in human rights standards of the Azerbaijani authorities has proven largely ineffective.

So far, the ENP in Azerbaijan has been strong on democracy and human rights rhetoric but woefully weak on substance. The EU risks losing credibility over its supposedly core values, its best means of 'attraction' in Azerbaijan. Monitoring organisations, EU member state diplomats and Azerbaijani civil society have expressed clear concerns over the government's crack-down on media and conditions surrounding preparations for the upcoming October 2008 elections. This represents a crucial juncture for the EU to demonstrate that it is willing to turn its rhetoric into substance. Implementation of the NIP and the opening up a Commission Delegation office is likely to invigorate the EU's involvement in 2008 as did the Commissions' critical annual ENP assessment on progress made in Azerbaijan. This is the moment the EU can show that energy interests and promoting democracy and human rights do not have to be mutually exclusive but can strengthen Azerbaijan as an independent state. As long as a small elite rules the country in an authoritarian manner, resulting in high levels of corruption, there can be no real stability. While Azerbaijan is receptive to the EU looking favourably on its relations with Baku, the EU should:

- develop further a sufficiently staffed and resourced Commission Delegation Office that will play a leading role in co-ordinating assistance efforts of EU member states;
- explain the EU and ENP far better to the people of Azerbaijan through media and public events; the main message still needing to be conveyed that, 'The EU is more than an economic partner';
- create additional though simple and efficient mechanisms to support NGOs, human rights defenders, political parties and media outlets with small but stable grants; increase transparency of financing methods to make it easier for Azerbaijani organisations to apply; and also work to influence the government on their plan to set up a national civil society financing fund;
- reconsider direct budget support at the first general review opportunity and at least negotiate matching funds from the Azerbaijani state budget; eventually redirect direct support from the state budget to civil society initiatives;

- assess rigorously any improvements on democracy after the Presidential elections that will take place in the last quarter of 2008, making it clear that only through fully free and fair elections might Azerbaijan ever qualify for funds through the Governance Facility;
- focus limited resources under the bilateral NIP as much as possible on fighting corruption and set clear benchmarks on progress made;
- make clear to the Azerbaijan government that ENP cannot be taken for granted and that intensive energy co-operation alone will not do; telling Baku in clear terms that relations with the EU will largely depend on progress made in democratic reform and respect for human rights. Azerbaijan's dependence on energy exports exceeds the EU's reliance on energy import, so there is EU leverage that can be used provided there is political will to do so.
- use EU leverage through negative conditionality, as well as public statements by EU officials and EU member state politicians where necessary – on media freedom and the 2008 Presidential elections; abstain from positive financial incentives but praise the authorities in public on reforms implemented.

The EU and Azerbaijan are important to each other, especially in the energy sector: The main message that Brussels will need to bring across is that democratic governance and respect for human rights will strengthen Azerbaijan's stability and energy resource management in the long-term. Only if the EU steps up its engagement, uses its leverage and stands strong on the values enshrined in ENP will it stand a chance of intensifying democratic reform in Azerbaijan, and enabling the latter to move from being a passive to an active partner of European powers. After the events of August 2008 in Georgia this is an even more urgent requirement.