



Mesmerized by Enlargement: The EU's Eastern Neighborhood Policy and New Member State Transition Experience

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The accession of the East-Central European (ECE) countries carried a promise of enhancing and enriching the EU's Eastern policy. The new member states had the strongest interests among EU member states to ensure that countries in the East are prosperous, stable, and democratic. Yet, the EU's Eastern policy has been largely criticised for its ineffectiveness. So why have they not been able to address the shortcomings in the EU's Eastern policies? The article argues that the ECE countries supported the way the EU's Eastern policies were conceived and implemented because they saw it as a potent vehicle to promote their own transition experience not only in the region but also within the EU. We argue that the ECE states have experienced three types of challenges when promoting their transition experience. First, uploading to the EU level remained largely at a rhetorical level. Second, there are conceptual and practical difficulties in defining what constitutes transition experience and harnessing it, as well as coordinating its transfer between the ECE states. Finally, while using transition experience as the basis for their development assistance strategies, the ECE countries actually insufficiently conceptualised the "development" aspect in these policies. Being so driven by their own experience, they have not drawn the lessons from enlargement to use in a non-accession context, especially by incorporating the broader lessons with regard to development.

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Introduction

The European Union's policy in its Eastern neighbours has received much scholarly criticism.¹ EU engagement with the region replicates the logic of enlargement, as it focuses on the approximation of national legislation to the *acquis communautaire*,

various forms of aid, deeper trade links, assistance, and twinning, but without offering prospect of membership. Adoption of EU rules has increasingly been seen as a tool to promote the development of the countries in the region. However, it is highly questionable whether this is so, and most observers agree that so far the EU has been unable to promote sustainable change in the region. For many, the Vilnius Summit in November 2013 exemplified the weakness of the EU's influence on the Eastern neighbors, when only two out of four countries which concluded the Association Agreements signed them in Vilnius. Russia's backlash against the EU's engagement in the region, including a resort to military power, has raised a number of important questions for the EU and has highlighted flaws in the design of its Eastern neighborhood policies.² Most importantly, the impact of the EU on domestic reforms has been very limited,³ with no evidence of a wide-ranging, successful, and sustained process of domestic reforms in the Eastern neighbors.⁴

Several years back, the accession of the East-Central European (ECE) countries carried a promise of enhancing and enriching the EU's Eastern policy. These countries have perhaps the strongest interests among EU member states to ensure that countries in the East are prosperous, stable, and democratic. So why have they not been able to address the shortcomings in the EU's Eastern policies? In fact, we argue that while voicing some criticism, they have generally accepted and even promoted a policy which has been clearly unable to deliver on its proclaimed objectives. We accept the premise that any engagement in its eastern neighborhood is perceived by most of the ECE states as a better outcome than the lack of such engagement, and since their criticisms of the EU's Eastern policies were ignored, these states are doing what they expect would be at least some improvement to the lack of their involvement in the EU's policies—supporting the EU's engagement and exporting their transition experiences through it. However, it is still surprising that despite the lack of visible results, the EU's neighborhood policy seems to have enjoyed relatively widespread support among the ECE member states, which have accepted it as a ready-made formula for political and economic modernization.

The over-riding position appears to be that “the model worked for us so it should work for you,” indicating that they seem to be mesmerized by their own experience of enlargement and being “pupils” of the EU during the accession to “the club.”⁵ Consequently, they assumed the role of sympathetic, newly trained teachers in the Eastern neighborhood and made this mission central to the construction of their development assistance policies.⁶ However, in many respects, they did so without reflecting on their experience and updating it to a changed context of the new “pupils.” The article argues that the ECE countries supported the way the EU's Eastern policies were conceived and implemented because they saw it as a potent vehicle to promote their own transition experience, not only in the region but also within the EU. In ECE, transition experience has a broad meaning and essentially denotes the whole post-communist reform process and preparation for EU membership, as these two processes became closely intertwined in the first decade and half

following the collapse of communism. The ECE countries' experience of economic and political transition as well as EU integration is said to be highly relevant for the situations found in the Eastern neighbors of the EU, as they share many historical and social characteristics with the new member states and still have need of extensive political and economic reforms, while at the same time pursuing economic integration in the EU's single market. The Eastern neighborhood is deemed an arena in which the transition experience of ECE states may assist in the simultaneous process of domestic reforms and integration with the EU. Thus, the ECE countries have all been highly keen on promoting their experience, which they see as a way to enrich the EU's policies and make them more relevant for the region. The conviction that ECE transition experience would help the Eastern neighbors in their reform and integration processes and thus contribute to regional security, however, is only one motivation. There is also a second, less emphasized, economic motivation: if ECE transition experience is unique and it truly contributes to enriching the EU's Eastern policies, then the EU should financially support its transfer to the Eastern neighbors.

However, promoting transition experience is easier said than done. We argue that the ECE states have experienced three types of challenges in this process. First, uploading to the EU level has not been entirely successful and remained largely at a rhetorical level. Second, there are conceptual and practical difficulties in defining what actually constitutes transition experience and harnessing it, as well as coordinating its transfer between the ECE states. Finally, while using transition experience as the basis for their development assistance strategies, the ECE countries actually insufficiently conceptualized the "development" aspect in these policies. They do not scrutinize the appropriateness of enlargement instruments when applied to non-accession states through a critical reflection on their own preparation of membership in order to enhance the effectiveness of the EU's rule transfer outside the context of enlargement. ECE officials both in EU institutions and in the national capitals have shown a high level of confidence in the "transformative power" of the *acquis*. Being so driven by their own experience, they have not drawn the lessons from enlargement to use in a non-accession context, especially by incorporating the broader lessons from the field of international development.

The article therefore focuses on the question of chain-like diffusion and argues that having been a target country for successful rule transfer does not make an effective promoter of those rules with a view to promote socio-economic modernization in the post-Soviet countries. Actually, the ECE countries stimulated the EU's engagement in the Eastern neighborhood but in many respects could not rectify the inherent weaknesses of the EU approach to seeking "Europeanization without enlargement."

The article is structured as follows. The next section discusses the main outlines of the EU's neighborhood policy. The third section describes the approach that the ECE countries have taken towards EU policies in the region. The fourth section discusses the difficulties that using transition experience in the Eastern neighborhood

poses for the ECE countries. The final section concludes the article by making some analytical generalization arguing that an increased focus on legal approximation is an inappropriate tool to promote socio-economic modernization in the region.

The Nature of EU Policies towards the Eastern Neighborhood

Launched in 2004, the ENP is a composite policy with the ambitious aims of promoting democracy, economic development and security. At first, the ENP relied on soft-law instruments, such as Action Plans and Progress Reports. However, by late 2000s the focus shifted. After Ukraine began the negotiations on the Association Agreement, this offer was rolled out to other Eastern neighbors within the Eastern Partnership (EaP), launched in 2009. The Association Agreement represents a watershed in the EU's relations with the partner countries because it offers a highly legalized, binding framework for progressive economic integration. Its economic part, the Deep and Comprehensive Free Trade Area (DCFTA), goes beyond a "standard" FTA agreement by its emphasis on regulatory approximation. It is a deliberate shift from a vague reform agenda to a legal framework with specific and detailed commitments to adopt EU rules in exchange for a greater access to the EU single market. Therefore, even more than the ENP, the EaP follows the logic of enlargement by advocating extensive domestic reforms in partner countries during which the adoption of EU rules, the *acquis*, and the implied conditionality attached to the *acquis*, is viewed as a key to democratization and socio-economic modernization.

The ENP and the EaP are highly ambitious, having as their formal objectives nothing less than promoting democracy, economic prosperity, and security. However, the way that the ENP and EaP have been implemented in the Eastern neighborhood indicate a hierarchy of objectives: in general, socio-economic modernization has taken priority over democratization.⁷ This is at least partially explained by the nature of the EU itself. The ENP/EaP are composite policies, the multiple objectives of which cut across varied functional domains, which are governed by different institutional arrangements within the EU.⁸ Areas such as external trade, visa policy, conflict management, or democracy support are characterized by different competences of EU institutions. For example, trade issues are a clear competence of the EU whereas democracy is relatively weakly institutionalized; thereby, EU member states have a much greater freedom of action in democracy promotion than on trade issues. As democracy promotion has been already covered elsewhere,⁹ in this article, we focus on socio-economic modernization of the post-Soviet countries, which the ECE countries strongly subscribed to (and referring to it as development).

Like enlargement, the ENP and the EaP are indelibly intertwined with the expansion of the EU's rules beyond its borders. With the ENP, which was conceived parallel to enlargement, and even more so with the Eastern Partnership, the EU's strategy has centered on an intensive process of rule transfer to the post-Soviet countries. The

full analysis of the motives of the EU are beyond the scope of this article;¹⁰ however, this process of rule transfer is underpinned by the view that convergence with EU rules will ultimately bring stability and prosperity in the Eastern neighborhood, as was the case in ECE. Inside the EU, enlargement created a strong belief that adoption of the *acquis* equates with development, which is broadly defined as modernization of state policies and institutions, and the economic growth.¹¹

The beneficial effects of rule transfer are not limited to increased revenues from trade but include increased investment, enhanced competition, and reduced corruption, which lead to better governance and higher economic efficiency, growth, and welfare in partner countries. The process of alignment with the regulatory mechanisms developed in the EU is thus ultimately expected to transform the public policies of the neighboring states, resulting in growth, stability, and prosperity.

However, in the neighborhood, functional integration became detached “from the possibilities available to European countries under Article 49 of the Treaty on European Union.”¹² Instead, the EU has been seeking to exert its influence in the post-Soviet space by promoting “economic integration and political cooperation” with partner countries. This strategy was premised on a close connection between economic integration and the extensive adoption of the *acquis*. The dual justification usually provided relates to market access and developmental benefits. This means that whereas in ECE, the countries’ preparation for membership justified the adoption of EU rules, in the neighborhood context EU rules came to be perceived as a template for modernization of states which not only had no perspective for membership but also had lower levels of development than the ECE countries had in the 1990s. Why has the EU’s Eastern policy become so infused with the export of EU rules? Besides representing the internal “genetic code of European integration,” the *acquis* has served as a consensual basis for EU foreign policy making, or as put by Magen,¹³ the embodiment of the EU’s external “transformative engagement through law.” The Lisbon Treaty empowers the Union to “develop a special relationship with neighboring countries, aiming to establish an area of prosperity and good neighborliness, founded on the values of the Union” (TEU article 8). As Hillion argues, by “partly codifying past EU engagement towards its vicinity, [the Lisbon Treaty] does further than that: it establishes a specific EU competence for norms exports, enshrines its mandatory character and adjusts its purpose.”¹⁴ The codification of EU’s “transformative power” plays an important role in the Eastern neighborhood context, where EU policy has been accompanied by a lack of consensus on the ultimate strategy and *finalité vis-à-vis* the Eastern European countries.

In the absence of such consensus, the EU engages by promoting primarily what it already agrees upon, that is, its corpus of norms and rules. While the import of the *acquis* was singled out as a major accession criterion under the enlargement process designed in the 1990s, since the last wave of enlargement the *acquis* has also emerged as a key link connecting EU members with each other in a context of growing heterogeneity: “Portugal and Poland might not agree on various aspects of the

EU's political relations with Ukraine; both Portugal and Poland agree, however, that the export of the EU *acquis* to Ukraine is a good thing from the point of their national interests."¹⁵ Therefore, the export of the *acquis* serves as a backbone of consensus within the EU, underpinning the strategy towards the Eastern neighbors.¹⁶ Still, for many member states, the Eastern neighborhood had hardly been a foreign policy priority until the Ukrainian crisis, remaining a "third-tier policy."¹⁷ Because of the sheer difficulty to persuade the reluctant EU member states, such as France, Spain, Italy, and Portugal, about the merits of engagement in the Eastern neighborhood, there was a considerable reluctance among the ECE member states to criticize the policy because of fear of weakening its support amongst the "reluctant" member states. Instead, it has been presented as a cost-effective and low-risk way to build on the positive experiences of enlargement, but without the costs and risks of enlargement.

These considerations reflect and enhance the centrality of sector-specific, technical rules to the EU as an international organization and foreign policy actor.¹⁸ Accession conditionality based on the adoption of the *acquis* worked in the 2004 and 2007 enlargements¹⁹ or even in the Western Balkans.²⁰ According to an EU official, "the wider *acquis* is often attractive to ENP partners, given that the EU has a well-established and complex mechanism to elaborate standard-setting sectoral policies that is not replicated elsewhere."²¹ The possibility of accession, however, is absent in the case of the Eastern neighborhood. Nevertheless, this is a new territory for the EU: there is no precedent for promoting the *acquis* as a template for development and modernization without a concurrent offer of a membership perspective.²²

No doubt, the export of the *acquis* in the EU's Eastern policy offers many advantages for the EU, not least preventing time-consuming negotiations on various aspects of reform and devising a tailor-made reform strategy for the Eastern partners. This task has simply been beyond the capacity of EU officials charged with implementing the ENP and the EaP. This lack of capacity is reflected in the approach to the Association Agreements, whereby the text negotiated with Ukraine became a template for Moldova and Georgia with few modifications. As Magen argues, "Commission officials are deeply averse to the possibility of having to repeat the Swiss experience of tailor-made, sector-specific agreements in future negotiations with other EU partners."²³ The wholesale rule transfer is also believed to reflect the needs of the Eastern partners. According to the Commission officials Dodini and Fantini, the neighbors face a choice of either adopting EU *acquis* or developing a regulatory framework from scratch.²⁴ They also argue that the EU model is superior to that of other international actors in terms of the quality and density of its regulation and the comprehensiveness of reform it entails. The idea was that all EaP states are to benefit from modernizing their public policies and economies, and thereby benefit in developmental terms, by anchoring them in the EU model of governance, regardless of their actual aspirations or capacities to achieve this.

Summing up, the EU's Eastern policies very much focused on the adoption of EU rules as fast-track to development and modernization. However, it is widely agreed that this policy has so far achieved little visible results. We now turn to understanding how the ECE member states have supported the policy in order to explain why they have been unable to enhance its effectiveness, despite having relevant transition experience.

The ECE Member States and the Eastern Neighbourhood

Since accession to the EU, the ECE states have been ardent supporters of EU engagement with the Eastern neighbors through the ENP and the EaP. The ECE states have strong interests towards the ENP/EaP, given the geo-political connections between the two sub-regions.²⁵ The ECE states have been relatively successful in shifting the EU's agenda towards the Eastern neighbors, albeit with the support of older member states, such as Germany and Sweden.²⁶ The geopolitical proximity of countries in the Eastern region, issues such as energy security, and the shadow of Russian influence all highlight that it is a vital security and economic interest for the ECE countries that the ENP countries *really* develop and stabilize.

If regional development and stability is a key interest for the ECE countries, then why do they support the EU's ENP in its current form, which, as argued above, is unlikely to promote these goals? We argue that the highly legalistic and technical nature of the EU's policies actually fits the ECE countries' own perception and experience of development for three inter-related reasons. First, these countries have themselves been beneficiaries of the EU's "transformative power," and throughout this integration process, intertwined with their wider economic, social, and political transitions, they have accumulated a vast amount of experience in how to do reforms. Second, drawing on their own experience, ECE member states uncritically accept the EU as a "force of good" in the Eastern neighborhood without considering what is needed to make the EU an effective "force for good" outside the context of enlargement. Third, most crucially, they see their "transition experience" as something which can enrich the EU's policies in promoting stability and prosperity in the neighborhood and see the transfer of the *acquis* as instrumental to achieve this objective.

Transition experience is heralded by the ECE states as the value added that they bring to development policy. It refers to the fact that ECE states underwent transition between 1989 and 2004 (economic transformation to market economies and political transition to democracies), and their experiences from this process can be transferred to other states undergoing—what is perceived as—similar transitions. This experience is unique to the ECE states, as their transitions happened simultaneously with their process of implementing the *acquis*. During this process, they carried out wide-ranging reforms, in particular the organization of free and fair elections, the construction of checks and balances, judicial reform, macroeconomic stabilization,

liberalization, the privatization of state assets, etc. Although different countries adopted different solutions to various problems raised during the transition process while adopting the *acquis* and building relevant institutions, it is generally agreed that the alignment with EU policies has been a success,²⁷ although the state of democracy in some ECE states is not without its critics.²⁸ ECE transition experience is none the less seen as a reform model for countries in the Eastern neighborhood to follow, especially with regard to meeting the *acquis*, whatever form their association with the EU will take.²⁹

The ECE states have strongly reaffirmed the importance of the transfer of transition experience as a central element in their international development policies, as evidenced by several policy papers and legal documents from the region. A very good example of this is the wording found in the Czech Republic's Development Cooperation Strategy for 2010–2017:

The Czech Republic has a comparative advantage over most of the established donor countries—its experience of a process of political, economic and social transformation. It seeks to capitalize on this advantage in cooperation with countries undergoing similar changes, and in countries where the democratic process has not been initiated.³⁰

Very similar statements can be found, for example, in Slovakia's Medium Term Strategy for Development Cooperation 2014–2018³¹ or Poland's Multiannual Development Cooperation Programme for 2012–2015.³² Hungary's International Development Policy Strategy for 2014–2020 stresses institutional development as one of the three main priority sectors where Hungary supports its partners, and the role Hungarian state institutions can play in this. These countries have also created dedicated institutional structures to promote their transition experience, such as the Transition Promotion Programme (Czech Republic), the International Centre for Democratic Transition (Hungary), the International Solidarity Fund (Poland), and the Transformation Experience Sharing Programme (Slovakia).

The transfer of transition experience became therefore a key element in the bilateral development policies of the ECE countries, and they have indeed engaged in a wide number of projects in the Eastern neighborhood, ranging from assisting the reform of ombudsman services in Moldova (Hungary) to supporting customs reform in Ukraine (Czech Republic). All ECE states also support the activities which their civil society organizations undertake in the region, which includes training local civil society organizations in issues like advocacy, campaigning, or fund raising. Thus, we see training courses funded by Slovenia related to the empowerment of women or Czech courses training journalists.³³ These bilateral efforts, while often welcomed by the partner countries, receive relatively small amounts of funding, and have in some cases been accused of being donor-driven and ineffective.³⁴ On some occasions, however, the ECE projects do address the needs and priorities of the partner countries, albeit usually on a very modest scale. For example, the small-scale analysis

conducted by a Romanian think-tank of Moldovan developmental needs in agribusiness provided a very thorough and sobering assessment of the underdevelopment of this key sector for the Moldovan economy.³⁵ This filled an important gap, given the EU's lack of attention to functional needs of the partner countries, including the need to reach out beyond governmental institution and engage producers' associations.

This then raises an important question: can ECE transition experience enrich the EU's Eastern policies and compensate for its deficiencies? Clearly, the ECE countries have made attempts to upload transition experience to the EU level, with the argument being that it could make EU assistance more relevant for the Eastern partners. The following section discusses why transition experience, despite its promise, has generally failed to enrich the EU's Eastern policies.

Why Has ECE Transition Experience Failed to Enrich the EU's Eastern Policies?

We argue that the ECE states have achieved some success in streamlining their transition experience into EU policies, but in general this is rather limited because of three reasons. First, uploading transition experience to the EU has been met by some resistance. Second, actually using transition experience poses severe practical problems because of its diffused nature. Third, adding transition experience to the EU's efforts does not solve the problematic development aspects inherent in a modernization strategy centered on the transposition of the *acquis*. We investigate these three issues below.

Uploading to the EU

The ECE states have a strong interest in engaging with the Eastern neighbors, but their preferences on how to do this diverge from those set on the EU level. They have achieved some success in forming these preferences, including a greater focus on civil society and the need to maintain the importance of flexible instruments to support democracy and human rights (evidenced by the creation of the European Endowment for Democracy). These successes however have mostly only refined, rather than challenged, the EU's approach to the region,³⁶ and we will not investigate them in detail.

As outlined above, one of the issues on which the ECE states have attempted to influence EU policies towards the region, and has the strongest relevance for socio-economic development and modernization, is the usage of their transition experience. They have achieved some success in this, especially regarding a rhetorical commitment from the EU to build on this experience. For example, Article 33 of the 2006 European Consensus for Development³⁷ states that "the EU will capitalize on new Member States' experience (such as transition management) and help strengthen

the role of these countries as new donors.” The European Consensus does not form part of the hard law of the EU *acquis*, but it provided a foothold for the ECE states to lobby the EU institutions to “consider how to systematically employ transition experience in EU external action.”³⁸ The ECE states called for EU financial instruments to utilize transition experience and explicitly called for earmarking funds dedicated to transition cooperation under the thematic programs of the EU’s Development Cooperation Instrument. This can be seen as suggesting that the ECE states have a financial interest in the uploading of transition experience, although it is also clear that without the EU “putting its money where its mouth is,” utilizing transition experience runs the risk of remaining a rhetorical commitment on paper. The earmarking of funds, however, has not happened, and Szent-Iványi showed that actors (mainly NGOs, but also private companies and government agencies) from the Czech Republic, Hungary, Poland, and Slovakia do rather poorly in winning EU-financed international development-related grants and contracts in the Eastern Neighborhood countries.³⁹ This highlights that whilst the EU is willing to allow ECE states to upload policy preferences at a rhetorical level, in many areas of external relations, especially those related to finance, they still play a role of “junior partners.”⁴⁰

The fact that transition experience is not fully used in practice by the EU is also shown by a Commission policy document, endorsed by the Council in 2013, entitled *EU Support for Sustainable Change in Transition Societies*, which reiterated the need for a stronger use of transition experience in the EU’s external policies.⁴¹ Emphasizing the need to “make efficient use of knowledge-sharing and capacity development methods, including the use of transition experience of EU Member States’ signals that the ECE countries were not satisfied with the degree of their transition experience being integrated into EU policies.⁴²

In terms of policy design, the ENP and the EaP have been driven by EU institutions, with DG Enlargement playing a prominent role and shaping the policy. The very nature of EU decision making leaves little scope for member state involvement and substantive input. Larger and/or richer member states, such as Sweden, are able to devote considerable resources of their own to engage with the Eastern countries on a bilateral basis (e.g., the Swedish International Development Agency, SIDA, has been very active in the region). Lacking such resources and institutional capacity, the ECE countries rely on the EU at large to factor in their transition experience.

The Nature of Transition Experience

Part of the difficulty of diffusing transition experience stemmed from the ambiguities of the concept. Transition experience spans a number of different sectors: reforms in the ECE countries basically impacted all areas of public life, making transition experience potentially an extremely broad term. Estonia, for example, stresses “practical solutions” that embrace a wide scope of different areas: from democratic institutions and elections to different sectors of socio-economic reform,

including Estonian models of e-governance, taxation, social security, health care, public administration build-up, domestic coordination of EU-related decision making, transport and logistics systems, management of EU assistance and structural support, etc.⁴³ Poland mentions, among other things, issues like developing small and medium enterprises, agricultural and rural development, counteracting environmental degradation, climate change mitigation and adaptation, and building modern information management systems as parts of its transition experience.⁴⁴ While the transition and integration process clearly impacted all of these sectors, has it really informed sectoral know-how to the extent to make Estonia's or Poland's expertise unique? Other ECE countries do not seem to detail the content of their transition experience as much as these two countries do, and mainly imply that transition experience refers to sharing expertise between various actors (official and non-state) on reform processes. Nonetheless, it seems that if a country wants, it can argue that any knowledge transfer project that it undertakes with its partners is related to transition experience.

The conceptual challenge maps onto practical difficulties. How can ministries of foreign affairs (MFAs) in charge of international development policy actually harness transition experience, which exists in a decentralized manner in different government agencies, NGOs and individual experts. How can those who conducted the reforms in ECE countries and hence possess transition experience, and may not even think of their knowledge as transferable to other countries, be engaged in development cooperation? And, more broadly, how will the MFAs gather information on "who knows what"? This situation in essence leaves the ECE country free to label whatever they want as transition experience, turning the concept into a broad, catch-all phrase with little substance.

The ECE member states were asked to collect information on their transition experience and report it to the Commission, which resulted in the publication of the European Transition Compendium (ETC) in 2011.⁴⁵ This is basically a collection of projects, best practices, and actors from the ECE countries which may represent transition experience, and can serve as a basis for future projects. The ETC was published with the intention of allowing for future additions and making it a "living" project. However, the project seems to have been "dead on arrival." Some countries seem to have been more ambitious in collecting and reporting their transition experience than others. Hungary, for example, only reported 7 projects, while Estonia added 30, leading to about 320 projects in total. It is curious why the ECE countries did not put a larger effort into collecting their transition experience, when they advocated the issue themselves. This can be explained by the fact that MFAs did not have the capacity to solve the domestic "who knows what" problems, and more generally were not interested in limiting the scope of their transition experience to what is in the ETC.⁴⁶ Regular checks on the ETC database reveal that the planned updates are not really happening, and the list of projects included has only marginally increased compared to the initial version. The failure of the ETC is implicitly acknowledged by

the Commission⁴⁷ as it calls for a “broader platform” for knowledge sharing, and has recently been favoring another portal, capacity4dev.

Transition Experience and Development

Transferring transition experience requires a development policy based heavily on technical cooperation tied to procurement from donor country experts, and is thus highly supply driven, allowing little scope for national ownership and alignment with recipient priorities. Effective aid practices assumes the recipient country requests the form of assistance it requires from the EU, rather than the EU proposing solutions. Despite the rhetoric of differentiation and partnership, the EU’s policy towards the neighborhood have been EU-driven. This applies not only to EU institutions but also to how the ECE countries promote their transition experience. This is evident in sectors with thin *acquis* (e.g., regional decentralization, public administration reform, health sector, education, etc.) as well as in areas with thick *acquis*, where ECE countries merely endeavor to convey EU templates (competition policy, sanitary and phytosanitary, intellectual property rights). Their approach is clearly supply-driven as they offer ready-made solutions based on their own experience and hence are more attuned to the specific needs and context of the recipient countries.

Ultimately, transferring transition experience relies on the model of technical assistance, which has been largely deemed ineffective and discouraged in the development context.⁴⁸ Amongst others, the technical assistance model generates what Carothers refers to as the “problem of knowledge” and understanding of the local context in which reforms are promoted as well as an ownership issue.⁴⁹ How likely are reforms to be maintained if they are seen to be products of external advice and have little domestic ownership?

This is closely linked to the type and scale of funds available. There is evidence that “linkages matter” in relation to democracy promotion.⁵⁰ This would suggest that the short-term trips, trainings, seminars, and study visits that are frequently favored forms of assistance provided by the ECE countries to the Eastern neighbors would be effective linkages. However, their effectiveness in relation to ECE transition experience is often questionable, with extensive yet anecdotal evidence of officials from Eastern partner countries treating them more as “tourist trips” to visit Bratislava or Tallinn rather than learning opportunities.⁵¹ So is hosting “hundreds of officials from the Eastern Partnership countries” to be trained in, say, Estonia, the most effective way to promote learning?⁵² When looking at lists of transition experience transfer projects from the ECE countries, one is confronted with an endless number of technical training sessions, workshops, and expert and study visits. Providing a comprehensive picture is difficult because of limitations in data; however, the evidence available so far indicates an overt reliance on training and study visits. An information booklet published by the Polish Ministry of Foreign Affairs, for example, clearly gives the impression that Poland’s activities consist largely of providing training, or

sending experts, often with the view of transposing the EU *acquis*. A recent evaluation of the Czech Republic's assistance in human rights, democracy, and societal transformation to Georgia has highlighted the low sustainability of study visits and training due to high staff turnover in government, especially after elections.⁵³

Having said that, there is some evidence that the problems of knowledge/local context are less acute in the case of ECE transition export and that ECEs can fill in some gaps at a short notice when responding to specific needs of the neighboring countries.⁵⁴ The small Romanian think-tank mentioned earlier successfully reached out to domestic actors in Moldova at a time when Moldova suffered embargos on fruits and wine from Russia, while not being able to access the EU market due to lack of infrastructure and appropriate know-how. Their ability to communicate in Romanian and explain the issues in an accessible way helped local actors, something that the EU Delegation in Chişinău was not able to engage in. The Romanian experts articulated the need for the EU institutions to be more pro-active in helping Moldova to re-orient its exports to the EU market.⁵⁵ Symptomatically, the project was co-funded by an "old" member state, namely the Dutch embassy in Bucharest. This also shows that the ECE countries are valued as partners for the "old" members not least because of lower cultural and language barriers. But, ultimately, this does not mean an acknowledgement of their experts being able to export transition experience by making a sustainable and tangible impact.

Finally, there are issues of coordination and resources. Institutional coordination within the ECE countries appears to decrease effectiveness of assistance. In the Czech case, for example, transition experience is dealt with separately from development⁵⁶ as the area is addressed by the Transition Promotion Program, run by the Department of Human Rights and Transition Policy within the Ministry of Foreign Affairs, and not the Development Department. In case of Poland, Hungary, or Latvia, a large number of state agencies and line ministries are involved in international development, which has led to coordination problems and parallel initiatives which have decreased effectiveness.⁵⁷

The nature of bilateral assistance means that coordination between the ECE countries is limited, each implementing a considerable number of small projects. For example, upon the launch of the Eastern Partnership, Ukraine agreed that Lithuania could organize training for Ukrainian civil servants on different aspects of European integration. Additionally, Ukraine held expert consultations with Poland in December 2009 involving several ministries and other central authorities and a discussion of potential joint projects. Cooperation with Slovakia on civil servants' training developed in parallel.⁵⁸ This diffused approach inherent in ECE states' bilateral strategies towards the Eastern neighbors leads to the classic sins of developmental assistance: fragmentation and a lack of coordination.⁵⁹ Yet for relatively small agencies to harness their transition experience and match it with actual demand in partner countries is already a considerable challenge, leaving little scope for coordination amongst the ECE agencies themselves. Without such coordination, any impact these small projects achieve is likely to remain small-scale and local.

The Question No One Dares to Ask: Does the Adoption of the *Acquis* Really Promote Development?

Much of ECE transition experience relates to preparation for EU membership, which requires adoption of the *acquis*. This makes the ECE countries well positioned to share this experience with the countries further east. There are reasons to be skeptical about just how effective a tool the adoption of the *acquis* can be for promoting development in the Eastern neighborhood. The main issue is related to the suitability, relevance, and clarity of the *acquis*. The intricate and dynamic system of EU rules was developed for market economies and is not easily transposed to the Eastern partner countries, given their political, economic, and administrative contexts. In essence, there are few signposts on how the *acquis* should be used for developmental rather than accession purposes. EU officials tasked with deciding on an appropriate level of approximation have often been unclear what they aim to achieve.⁶⁰ Without a clear blueprint, EU officials and experts involved in the Eastern neighborhood have been resorting to a default maximalist—enlargement-like—interpretation.⁶¹ This interpretation was shared by both officials in EU institutions and officials from the “old” and new member states, as the accession context was the one they tended to be familiar with. As a side effect of this, the EU’s strategy has become supply-driven and not attuned to the regional context, nor is it sufficiently sensitive and responsive to partner countries’ needs and capacities to facilitate domestic reforms.

The relationship between the adoption of EU rules and development (or modernization as it is referred to in EU documents) is not straightforward. While being the lynchpin of EU integration, the *acquis* is, in fact, a questionable blueprint for a feasible and cost-effective reform process of non-member states.⁶² This had been raised during enlargement, but accession conditionality marginalized any debates and concerns.⁶³ One issue relates to the incongruity between the nature of the EU’s “offer” and transformation processes in the Eastern neighborhood.⁶⁴ The EU’s strategy requires adoption of reforms in a relatively short period of time, namely, five to eight years, while the positive impact of these changes are unlikely to bring immediate economic growth and welfare benefits, and cannot be justified by the promise of ultimate membership. As was the case during enlargement, the ENP/EaP relies on “deferred gratification” along the lines of “reforms now, benefits later” as recognized by the European Commission.⁶⁵ The size of the reward has been a “weak spot” in the EU’s Eastern policy, because what the EU offers cannot compensate for the hard domestic reforms which it advocates.

The scale and type of domestic adjustments envisaged under the ENP/EaP present a particular challenge for post-Soviet states, as they all suffer from poor governance and very low institutional and administrative capacity. In many instances, transfer of EU rules is designed to address the very problems which hamper the convergence with the *acquis* in the first place, such as political instability, lack of rule of law, weak

administrative capacity, corruption, and frozen conflicts.⁶⁶ Therefore, in many respects, EU policies in the Eastern neighborhood have not necessarily been closely matched with, and suited to, partner countries' needs, capabilities, and priorities insofar as the modernization objectives are concerned.⁶⁷

Insights from the international development literature can underline the problems that a development strategy based on *acquis* adoption poses. First, the EU is in the driving seat and decides on the scope and prerequisites for functional integration. As such, it is not a "problem-driven" or "recipient-driven" approach which international donors, including the World Bank, increasingly promote in development assistance, upon recognition that assistance is most effective when tailored to particular circumstances.⁶⁸ A clear example of this is the requirement for Moldova to introduce a system of monitoring state aid. The actual justification for a system is very questionable as most of agriculture, which is a key sector in Moldova, is excluded whereas heavy industry is based in Transdnistria, leaving not much to actually monitor. Yet an extensive and expensive system is being created to satisfy EU requirements.⁶⁹

Second, there is no search for feasible strategies for reforms. Often transposition of the *acquis* has become a focal point. The EU seems to pursue the "ideal neighbor" model (e.g. Norway) as a desired level of legal approximation. There is no evidence of considering a "second-best mindset," as advocated by some aid donors, including the World Bank. International experience shows that best-practice legislation and institutions often set the bar too high and reforms are derailed as a result. Partial reforms, involving adaptation of law to domestic circumstances, could deliver better and more sustainable results than pursuing optimal but unrealistic goals.⁷⁰ Yet the EU appears to favor the optimal, textbook approach, that is, seeking full compliance with the *acquis*.

Third, while a comprehensive and uniform agenda is pursued by the EU, there is relatively little attention paid to country-specific context and priorities. The neighborhood policy falls between the two stools: enlargement and development. On the one hand, it has been a target for an extensive export of the *acquis*, in line with the enlargement approach. Yet, this export was not preceded or accompanied by enlargement-like planning and resources. Domestic demand for policy templates is *presumed*.⁷¹ While the EaP is characterized by an ambivalent *finalité* and inadequate resources, the EU institutions have had little incentives and resources to question the use of the textbook enlargement approach in the Eastern neighborhood. In practice, the European External Action Service (EEAS) and individual DGs, such as DG Trade, DG Energy, DG Competition etc. define their expectations and devise recommendations vis-à-vis the partner countries, often with little appreciation and/or understanding of their context, capacity, and situation.⁷²

Fourth, in absence of other "developmental" benchmarks adopted by the EU and its institutions, legal approximation seems to be equated with reforms. If countries are adopting laws transposing the *acquis*, it means they are successful in pursuing reforms. Legal approximation becomes a measure of success rather than actually

successfully addressing pervasive problems faced by those countries, such as lowering corruption or poverty reduction. In other words, progress in formal adoption of EU rules is used as a benchmark for measuring progress in modernization.

The domestic costs of transformation are highly prohibitive and the external benefits provided by the EU are not sufficient to offset them. In particular, the contribution of ECE countries to the overall structure of EU's external benefits is not sufficient (in the language of set theory) to offset the prohibitive domestic costs.⁷³ As pointed above, bilateral, small-scale projects can be effective when actually responding to the demands of the partner countries. However, by their very nature, such projects, especially when dispersed across a number of fields, could only have a limited, localized impact. Such bilateral assistance cannot overcome the domestic barriers to reforms. These include the lack of the drive for reforms by the incumbent elites and/or opposition from state officials interested in preserving their rent-seeking activities.

Ultimately, the difficulty with exporting transition experience stems from the fact that the post-communist reforms have been a complex, multi-faceted process in which external actors supported and reinforced the domestic reform drive.⁷⁴ A coincidence of domestic and external factors in ECE has been largely unique and not easily replicable elsewhere, especially by the means of small-scale projects.

Conclusions

The Eastern policy of the EU was launched in 2004, that is, simultaneously with Eastern enlargement and, in many respects, was designed to capitalize on enlargement, but without concurrent political and economic commitments from the EU. ECE states have consistently expressed an interest in seeing the Eastern neighbors reforming, and contributed their own transition experience. But the ECE input has not made much difference in terms of enhancing the policies of the EU. While they did have some impact on the way the EU promotes democracy in the region, in terms of promotion of socio-economic modernization, beyond the conclusion of the Association Agreements, actual progress has so far been very limited and the influence of the EU has been reduced to three of six states in the Eastern neighborhood.

We identify a number of factors accounting for ECE countries' inability to enhance the effectiveness of EU's Eastern policy. The picture which emerges is that being mesmerized with their own experience of accession, which is part of the "claim to fame" in the EU, the ECE countries inadvertently perpetuated and exacerbated the weaknesses in the EU's overall strategy, which centers on the export of rules to promote socio-economic modernization. The arduous process of implementation of the Association Agreements, requiring political will, administrative capacity, and massive costs, will further test the ability of the ECE countries to deliver on their special expertise to facilitate the implementation.

Many of the broader criticisms we offer in this article are not unique to ECE activities. Carothers highlights that in the field of democracy promotion, there is a need to learn from past experiences to develop smarter methods and thereby achieve better results.⁷⁵ There are successful micro-level individual projects funded by ECE actors that could update thinking on how best to “facilitate” change in the Eastern neighbourhood, but our study has found little evidence that the ECE states are undertaking this type of rigorous review across the areas encompassed by the EU *acquis*, although it might be a case of “time will tell.” Thus, the case of ECE shows the critical and nuanced way in which rule transfer works. Being a successful “target” for policy transfers does not automatically prepare a country for a subsequent effective export of this experience. Paradoxically, while stressing their transition experience, the ECE countries may have underestimated the intricate interplay of both domestic and EU-level factors which underpinned their own successes and which are not easily replicated despite their own engagement in “Europeanisation further East.”

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Notes

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