

The New EU-Ukraine Enhanced Agreement *versus* the EU-Ukraine Partnership and Cooperation Agreement: Transitional Path or Final Destination?

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Introduction

Ukraine is awaiting a new enhanced agreement with the EU. Formal negotiations started in 2007 and are expected to be completed in one or two years. The future Enhanced Agreement between the EU and Ukraine is of significant importance for both parties. As a result, its scope and objectives have become one of the most hotly debated topics among academics and practitioners in the field of EU external relations law. This is because the agreement will be the first among a new generation of external agreements to be negotiated by the EU and third countries under the framework of the European Neighbourhood Policy (ENP). Consequently, it will, to a certain extent, serve as a template and a point of reference for other future enhanced agreements to be concluded between the EU and other neighbouring countries which participate in the ENP.¹ Therefore, the new agreement with Ukraine (ENA) will be a model to follow for at least fourteen other ENP countries in line. At present in Ukraine the future ENA occupies the top position on the contemporary national political agenda. There is more or less complete agreement among political elites in the country that the ENA will be one of the major factors which influence, and consequently determine, the direction and pace of political reforms in the immediate future. In contrast to the issue of Ukraine's membership of NATO, the idea of joining the EU is shared and supported by the majority of Ukrainians.²

However, there are evident internal and external divergences in the perception of the scope and objectives of the future ENA. Internally, the President of Ukraine and the government do not hide their ambitious aspirations to negotiate an ENA which will eventually if not ensure, at least significantly accelerate Ukrainian progress towards full EU membership. On many occasions President Yushchenko has stated that in 2008 – 2009 a new association agreement can be negotiated with the objective of leading Ukraine towards full EU membership and considerable political and economic integration with the EU.³ In his opinion, Ukraine must be admitted to the EU because of its location on the European continent and because of the readiness and desire of the whole Ukrainian nation to adopt and to share European common values. The Ukrainian Minister of Foreign Affairs has gone further and expressed his dissatisfaction with the form and objectives of the ENP, stating that Ukraine is ready for a new, more enhanced form of cooperation with the EU which might lead to EU membership.⁴ The Ukrainian government does not hide its expectations that the future ENA should pursue the objectives of political association and close economic integration with the EU, with the future prospect of full EU membership for Ukraine.⁵

However, the pro-European aspirations of the Ukrainian political elite are frequently dampened by a more sober approach from Brussels. In January 2008 the Commission President J. Barroso stated that Ukraine must achieve a higher level of internal political stability before establishing closer relations with the EU.⁶ Commissioners have from time to time mentioned in their

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¹ The Council stated that "certain aspects of which [an Enhanced Agreement with Ukraine] could serve as a model for other ENP partners in the future". Press Release of the General Affairs and External Relations Council meeting, 18 June 2007 (10657/07 (Presse 138)).

² Recent polls show that about 58% of Ukrainians support Ukrainian membership of the EU while almost 60% of Ukrainians oppose membership of NATO. See the report from April 24th 2008 at <www.liga.net>, last visited December 10th 2008.

³ Interview with President Yushchenko, April 7th and June 25th 2008 at <www.liga.net>, last visited December 10th 2008.

⁴ Interview with the Ukrainian Foreign Minister Volodymyr Ogrzyzko. See the report from February 18th 2008 at <www.liga.net>, last visited August 10th 2008.

⁵ Report on President Yushchenko, July 10th 2008 at the "Yalta European Strategy" Forum at <www.yes-ukraine.org>, last visited December 10th 2008.

⁶ EU wants 'political stability' in Ukraine before closer ties, by E. Vucheva, 29.01.08, available at <www.euobserver.com>, last visited December 10th 2008.

public speeches that Ukraine has no chance of joining the EU in the short term.⁷ Even long-standing friends of Ukraine in the European Parliament enthusiastically propose establishing joint cohabitation, but not a marriage between the EU and Ukraine.⁸

These divergences in the perception of the objectives of the future EU-Ukraine ENA suggest that the parties involved will employ their best tools and strategies to achieve a compromise which could suit both of them. The Ukrainian side will push hard to negotiate a deal of a transitional nature with a clear prospect of full EU membership in the foreseeable future. The EU side will do its best to achieve a long-term contractual arrangement which will serve as an appropriate template for other neighbouring countries and offers adequate rewards to ensure Ukraine's abidance with the EU conditionality policy.

Objectives and scope of the new enhanced agreement

The objectives and scope of the future EU-Ukraine ENA have become a topic of popular debate by politicians and experts in Ukraine and abroad. Since the formal negotiating directives of neither party are open to the public, the whole debate is a highly speculative exercise. Nevertheless, it is possible to deduce the potential objectives and scope of the future agreement from the parties' binding and soft law, political statements, and contemporary EU external policy towards neighbouring countries.

The scope of the objectives of the future ENA as seen from Ukraine can be guessed from the non-binding Statement of the Verkhovna Rada "About the initiation of negotiations between Ukraine and the EU on the new fundamental agreement", which was issued on February 22nd 2007.⁹ This Statement welcomes the resolution of the European Parliament issued on April 7th 2006 instructing the European Commission to launch negotiations on a new association agreement between Ukraine and the EU.¹⁰ In particular, the Verkhovna Rada called on the EU to direct the negotiations towards the following objectives: 1) to acknowledge the possibility of full EU membership for Ukraine; 2) to negotiate a new agreement in line with the existing agreements between the EU and the countries of Central and Eastern Europe; 3) to specify timetables for every stage of integration between the EU and Ukraine in the political, economic, energy, security, legal and humanitarian spheres; 4) to ensure that the new ENA will contain provisions which are directly effective in the EU legal order; 5) to conclude the new ENA for a specific duration; 6) to ensure the long-term objectives of the ENA target full Ukrainian EU membership and its medium term objectives ensure sufficient access to the EC Internal Market. The Ukrainian side thus aspires to negotiate an association agreement with the clear objective of EU membership and Ukrainian access to the EC Internal Market which resembles either the Europe Agreements (EA)¹¹ or the Stabilisation and Association Agreements (SAA)¹² with the Western Balkan countries.

⁷ For example, External Relations and ENP Commissioner Benita Ferrero-Waldner stated on July 15th 2008 that "At the moment Ukraine has no prospect of full EU membership. Ukraine wants to negotiate an association agreement with a clear prospect of full EU membership. Only the Enlargement Strategy envisages such an option. Ukraine is not covered by the Enlargement Strategy." at <www.liga.net>, last visited December 10th 2008.

⁸ See interview with Mr. Adrian Severin (Chair of the Parliamentary Cooperation Committee "EU-Ukraine"), February 28th 2008 at <www.podrobnosti.com.ua>, last visited December 10th 2008.

⁹ Postanovlenie (Statement) of the Verkhovna Rada № 684-V "About the launching of negotiations between Ukraine and the EU on a new fundamental agreement", 22.02.07.

¹⁰ Resolution (P6_TA-PROV(2006)0138) on Elections in Ukraine states at para 10 that the European Parliament "notes that the current Partnership and Cooperation Agreement between the European Communities and Ukraine expires in 2008, and calls on the Commission to begin to negotiate an *Association Agreement* [emphasis added]". This position of the European Parliament was reiterated in Resolution (A6-0217/2007) of July 9th 2007, where it stated that "the negotiations should lead to the conclusion of an *association agreement* [emphasis added] that contributes efficiently and credibly to the European prospects for Ukraine and opens the corresponding process".

¹¹ EAs have been concluded with the following CEE countries: Poland (O.J. 1993 L 348/2, in force since 1st February 1994), Hungary (O.J. 1993 L 347/2, in force since 1st February 1994), the Czech Republic (O.J. 1994 L 360/2, in force since 1st February 1995), the Slovak Republic (O.J. 1994 L 359/2, in force since 1st February 1995), Romania (O.J. 1994 L 357/2, in force since 1st February 1995), Bulgaria (O.J. 1994 L 358/3, in force since 1st February 1995), Lithuania (O.J. 1998 L 51/3, in force since 1st January 1998), Latvia (O.J. 1998 L 26/3, in force since 1st January 1998), Estonia (O.J. 1998 L 68/3, in force since 1st January 1998), and Slovenia (O.J. 1999 L 51/3, in force since 1st February 1999).

¹² At the moment of writing, SAAs have been concluded with the FYROM (COM (2001) 90 final) and Croatia (COM (2001) 371 final) and Albania (COM (2006) 8164). The FYROM and Croatia SAAs entered into force on 3rd May 2001 and 12th

The EU institutions have been very careful to avoid any premature public discussion about the objectives and scope of the future EU-Ukraine ENA. It is only the European Parliament which has openly supported the Ukrainian aspirations and asked for the future ENA to be concluded as an association agreement with the objective of EU membership.¹³ Until recently, other EU institutions (with more decision-making power in this field) preferred to keep a meaningful silence on this important aspect of EU external policy.

Even within the academic community there was no uniform position on the future EU-Ukraine ENA. To date, the most outstanding contribution to the academic discussion on the agreement has been offered by Prof. C. Hillion of the University of Leiden, who has provided a comprehensive overview of its possible scope.¹⁴ In particular, he has argued that the future EU-Ukraine enhanced agreement will pursue the objectives of setting up a comprehensive and deep free-trade area between the EU and Ukraine, enhanced multi-faceted co-operation (in various fields, such as energy, the environment, transport and education) with emphasis on cross-pillar dimensions, and it will be a reciprocally-binding document. At the same time, the author believes that it will contain a conditionality clause, and will, therefore, require constant monitoring on the part of the EU. Most importantly, Hillion argues that the future enhanced agreement will be an association agreement based upon Article 310 EC, which is “potentially close although not necessarily exactly similar to the EAs or the SAAs with the Western Balkan countries”. The author drew his conclusions from “the terminology of several ENP documents” and “the inherent logic of the Neighbourhood Policy”. Most importantly, he states that “any agreement below association would not be perceived as an enhanced contractual relationship”.

However, there was a view that the scope and legal basis of the new EU-Ukraine ENA could differ from the generally expected association agreement based upon Article 310 EC.¹⁵ Two considerations were relevant to this opinion. The first consideration was of a legal nature. From the legal point of view, the objectives of an association agreement based upon Article 310 EC would not automatically imply that Ukraine would be given a legal commitment on the part of the EU regarding future membership. Furthermore, the objectives of EU-Ukraine short-term and medium-term co-operation could be achieved either by an association or by a partnership agreement. The second consideration was of political nature. On the one hand, the EU is likely to be in favour of an enhanced agreement in line with the neighbourhood clause (Article 8 TEU as amended by the Lisbon Treaty) and Article 212 Treaty on the Functioning of the European Union (TFEU), which provides better procedural arrangements for a third country than Article 217 TFEU (all decisions by the Council related to the conclusion of a partnership agreement can be taken by a qualified majority, while the conclusion of an association agreement would require unanimity). On the other, a “privileged” association agreement between the EU and Ukraine might be in contradiction with the objectives of the evolving EU-Russia strategic partnership. On many occasions the Russian government has explicitly stated that it would not welcome closer EU rapprochement with former Soviet countries which hinders regional integration in the post-Soviet area.¹⁶

Notwithstanding the thorny issue of the legal basis of the new EU-Ukraine ENA, there is more or less uniform consensus on the objectives and scope of the neighbourhood agreements, and the EU-Ukraine ENA in particular. The objectives of the neighbourhood agreements can be deduced from the general objectives of the ENP, which offers neighbouring countries the chance of participating in various EU activities through close co-operation in the political, security, economic and cultural fields.

(Contd.)

December 2001 respectively. The Albania SAA is not yet ratified. The EU has launched negotiations on new SAAs with Bosnia and Herzegovina, Montenegro and Serbia.

¹³ Resolution of the European Parliament (A6-0217/2007) of July 9th 2007.

¹⁴ C. Hillion, ‘Mapping-Out the New Contractual Relations between the European Union and Its Neighbours: Learning from the EU-Ukraine ‘Enhanced Agreement’’, (2007) 12 *EFA Rev.* pp. 169-182.

¹⁵ R. Petrov, ‘Scope of the new EU-Ukraine enhanced agreement. Is there any room for further speculation?’ (2008) *Max Weber Programme Working Papers* (2008/17).

¹⁶ See Russia’s Middle Term Strategy towards the EU (2000-2010), available at <http://www.delrus.ec.europa.eu/en/p_245.htm>, last visited December 10th 2008. Also see S. Kashkin, P. Kalinichenko, “‘Problem 2007’ in relations between Russia and the European Union and its legal solutions”, (2005) 3 *Journal of Foreign and Comparative Law*, p.64.

In accordance with the logic of the ENP, the future ENAs' objectives will not be identical, but will differ in order to reflect the existing status of relations between the EU and each neighbouring country, its needs and capacities, and common interests. The ENAs will be preceded by jointly-agreed tailor-made Action Plans, which cover a number of key areas specific to each neighbouring country as provided by the ENP: 1) political dialogue; 2) economic and social development policy; 3) participation in a number of EU programmes (education and training, research and innovation); 4) sectoral cooperation; 5) market opening in accordance with the principles of the WTO and convergence with EU standards; and 6) Justice and Home Affairs co-operation.¹⁷ It is likely that ENAs will reproduce both the general and individually tailor-made objectives of the relevant bilateral Action Plans. Thus, the general objectives of the ENAs could focus on close co-operation in the political, security, economic and cultural fields, with the eventual access of the neighbouring countries to the EC Internal Market. The individual objectives would reflect the various strategic priorities of the EU towards specific neighbouring countries. It is suggested that the new EU-Ukraine ENA will be either an association or a partnership agreement based upon various articles of the EU founding treaties with cross-pillar dimensions.

It is not to be excluded that the new EU-Ukraine partnership agreement will have a new ambitious title emphasising its enhanced character in order to satisfy the expectations of the Ukrainian political elite. For example, it could be called an "enhanced neighbourhood agreement" or "strategic partnership agreement" in order to emphasise its difference from the Partnership and Cooperation Agreement (PCA)¹⁸ and to underline a new level of political and economic co-operation between the parties without any immediate prospect of full EU membership.

Recently the EU decided to unveil some of its plans concerning the scope and legal basis of the future EU-Ukraine enhanced agreement. At the EU-Ukraine Summit in Paris on September 9th 2008 the Parties agreed that the future EU-Ukraine agreement will be "an Association Agreement" (based on Article 310 EC) which envisages reciprocal rights and obligations (implying the competence of common institutions to issue binding decisions).¹⁹ Among the most ambitious objectives of the new agreement will be the establishment of a comprehensive free trade area and the long-term prospect of a visa-free regime between the EU and Ukraine in return for the "large-scale regulatory approximation of Ukraine to EU standards" and enhancement of mutual cooperation in the areas of "justice, liberty and security, including migrant issues". Nevertheless, the EU fails to recognise EU membership prospects for Ukraine even in the long-term future. Instead, the Parties "acknowledge EU aspirations of Ukraine and welcome its European choice". However there are many issues of the EU-Ukraine enhanced agreement which still remain open. Among them: what will be the depth of the political dialogue between the EU and Ukraine?; how far will the Ukrainian undertakings be allowed to access the EC Internal Market?; will Ukraine be allowed to enter the EU-funded programmes? These questions will remain open until the very end of the negotiation process.

Once the new enhanced agreement is concluded, what is next?

The future EU-Ukraine ENA will serve as a fundamental pillar of the further rapprochement between the EU and Ukraine in the short and medium terms. However, one may be tempted to ask what will happen after the new agreement enters into force? In other words, will the new EU-Ukraine ENA be able to play a more significant role in EU-Ukraine relations than the outgoing PCA? This question is justified by the ambiguous legacy which the PCAs leave behind after their expiry, or their termination in the near future.

¹⁷ Communication from the European Commission "European Neighbourhood Policy Strategy Paper", COM (2004) 373 final.

¹⁸ EU-Ukraine PCA (O.J. 1998, L 49) entered in force on 1st March 1998. See V. Muravyov, 'Polozhenia Ugody pro partnerstvo ta spivrobitnitsvo, yaki reguluyt sferu pidpriemstva ta investitsiy (pitania implementasii)', 2 (1998) *Ukrainskiy Pravoviy Chasopys* 31-35.

¹⁹ EU-Ukraine Summit on September 9th 2008 in Paris "Joint Declaration on the EU-Ukraine Association Agreement", available at: <http://www.ue2008.fr/PFUE/lang/en/accueil/PFUE-09_2008/PFUE-09.09.2008/sommet_union_europeeneukraine>, last visited December 10th 2008.

On the one hand, the PCAs have indeed been frequently blamed for being “outdated” and “ineffective” contractual arrangements between the EU and the PCA countries.²⁰ To some extent these concerns are justified. The PCAs were designed as framework EU external agreements. However, in reality, they covered very limited areas of cooperation: the political and economic. They were mainly aimed at the establishment of a political dialogue, the facilitation of economic relations between the NIS countries and the EU Member States, the promotion of democratic reforms in the former Soviet countries, human rights protection, and the establishment of a legal order that guarantees the rule of law. Their preambles intentionally omit any reference to “the process of European integration” or “the objective of membership of the EU” as provided in the EU association agreements²¹, but aim solely at the development of close political relations, the promotion of trade, investment and harmonious economic relations between the parties, and at sustaining mutually advantageous co-operation and support of a PCA country’s efforts to complete its transition into a market economy.²² Thus, the PCAs served their purpose as reliable legal instruments in sustaining long-term relations with the PCA countries, while holding them at a controllable distance from closer access to the EC Internal Market.²³ Furthermore, the liberalisation of trade in goods and services is restricted, and ‘sensitive sectors’ are beyond the PCAs’ scope. Few PCA provisions could potentially be regarded as having direct effect in the EC legal order. Unlike the extensive ECJ practice with regard to the direct effect of the provisions of some external EU agreements (like the EEA Agreement, the Ankara Agreement, and the Europe Agreement), the ECJ record on interpreting the provisions of the PCAs is quite modest. It is limited to only one case in which it states that the provisions on non-discrimination treatment in labour conditions in the EU-Russia PCA could be regarded as directly effective.²⁴

On the other hand, one must agree that the PCAs appeared as an innovative breakthrough in EU external contractual practice in the 1990s. It was an interesting experiment in the field of EU external policy to set up a contractual relations framework with former Soviet countries and to thereby accelerate democratic and market economy reforms. Their structure and objectives were evidently inspired by the EAs. Nevertheless, as purely ‘transitional’ agreements, the PCAs aimed to bring the PCA countries to the gateway of the world market economy. Importantly, the PCA countries were given the chance to build a solid institutional framework for political dialogue with the EU. Application of MFN treatment and the GSP regime significantly liberalised mutual trade in goods. Furthermore, companies from the PCA countries could rely on non-discriminatory treatment should they want to establish themselves in the EU. The WTO rules became applicable to trade relations between the Parties and further areas of co-operation were generously provided for.

Therefore, considering both the positive and negative characteristics of the PCAs it would be more correct to conclude that they have proved to be quite effective and successful EU external framework agreements. In the end, most of their objectives have been achieved. Some PCA countries have joined the WTO (Moldova, Georgia, Ukraine, and Kyrgyz Republic), obtained “market economy” status (Russia and Ukraine) and successfully contributed to many EU policies. However, the general dissatisfaction with the PCAs can be explained firstly by the fact that most of them have become outdated and therefore do not reflect the reality of the present political and economic environment in the EU’s relations with its neighbouring countries, and secondly because they do not reflect current expectations of the bilateral relations between the EU and countries concerned.

It is not to be ruled out that the future EU-Ukraine ENA may follow a similar path and become outdated in very short period of time. This might happen for the same reasons as for the PCAs: a) dissatisfaction of the parties with the scope and objectives of the agreement; b) the gradual extension

²⁰ For example see Y. Borko, *Evropeiskomy Soyzy i Rossii neobkhodimo Sograsenie o strategicheskoy partnerstve* (Moscow: Probel 2000).

²¹ For example, the Preamble of the EU-Hungary EA.

²² Article 1 of the EU-Ukraine PCA.

²³ For a comparative overview and scrutiny of the PCAs, see R. Petrov, ‘The Partnership and Cooperation Agreements with the Newly Independent States’, in: A. Ott & K. Inglis (eds), *European Enlargement Handbook*, (The Hague, Asser Press, 2002) pp. 175-194.

²⁴ Case C-265/03 *Simutenkov v Ministerio de Educación y Cultura, Real Federación Española de Fútbol* [2005] ECR I-2579.

of the parties' cooperation beyond the scope and objectives of the agreement. One may predict that as soon as the new EU-Ukraine ENA is signed and ratified, either of the parties could press for the revision of its elements or the conclusion of another updated and more enhanced agreement as soon as possible. It is therefore important to focus on the short and medium term benefits and challenges the new neighbourhood agreement could bring to the parties, in particular to Ukraine.

In the field of political dialogue, the new EU-Ukraine ENA will be distinguished by an enhanced institutional framework with the right to issue binding decisions at the level of Cooperation/Association Council and the possibility of the informal participation of experts from both parties in taking decisions related to the operation of the agreement and free trade area in particular. In this case, the binding decisions of the Cooperation/Association Council could have a significant impact on the legal system of Ukraine. It will be one of the first cases in which the decisions of common institutions set up under the framework of an international agreement could be directly effective in the legal system of Ukraine. The Ukrainian Constitution grants acts of international law which have been duly ratified by the Verkhovna Rada priority over national law (apart from the Constitution itself).²⁵ Therefore, decisions of the Cooperation/Association Council might have priority over Ukrainian primary and secondary laws, which implies a significant impact on the legal system of Ukraine, especially in the fields of protection of foreign investors, non-discrimination, and the application of market economy principles. It is not impossible that the Constitutional Court of Ukraine will be asked to rule on the constitutionality of some of the decisions of the Cooperation/Association Council if they do not comply with the Ukrainian Constitution.

In the field of economic and social development policy, Ukraine will be expected to embark upon the regulatory approximation of national legislation to that of the EU in the fields of employment, social policy, and health/consumer protection. There are many fields of Ukrainian law which have already been aligned with international and EU standards. If provisions of the new EU-Ukraine ENA contain binding approximation commitments in the fields of economic and social policies, it will imply that the Ukrainian courts may refer in their judgements to the EU *acquis* as an authoritative source of law.

Some of the most problematic issues to be considered are equal access to jobs by Ukrainian and third country nationals, safety at work, the rights of the disabled and anti-discrimination laws. The participation of Ukraine in EU-funded programmes will accelerate new domestic reforms in fields like research and education. At present Ukrainian nationals have very limited access to EU-funded research and education programmes. Thus, Ukraine could be asked to financially contribute to many of these programmes as other non-EU Member States do. The participation of Ukrainian nationals in EU funded programmes will initiate considerable reforms in the field of research and higher education (university autonomy, higher education funding, and transparency) in order to improve the international competitiveness of Ukrainian universities and scholars.

In the fields of Justice and Home Affairs co-operation, Ukraine will be expected to align its legislation to that of international and EU standards in the fields of the fight against organised crime, human trafficking, the fight against drugs and terrorism, and in other issues such as asylum and immigration. Cooperation in these fields would require not only professional cooperation between Ukrainian and EU institutions like Europol, Frontex and Eurojust, but also the more active participation of Ukrainian experts and judges in projects such as the judicial network in civil, commercial and criminal matters. Such cooperation would imply not only legislative measures but also a high level of efficiency in the implementation and enforcement of law and professional network cooperation.

Finally, in the field of opening markets in accordance with the principles of the WTO and convergence with EU standards, Ukraine will be expected to ensure better access of foreign investors to national goods, services and capital markets without any discrimination, which undoubtedly will

²⁵ Article 9 of the Ukrainian Constitution provides that "international treaties that are in force, agreed to be binding by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine. The conclusion of international treaties that contravene the Constitution of Ukraine is possible only after introducing relevant amendments to the Constitution of Ukraine".

imply more pressure on Ukrainian courts to consider claims in this area in line with the WTO and EU acquis.

Concluding remarks

To conclude, we have set out a number of considerations which lead us to believe that the outgoing PCAs and the incoming ENAs will have several similar characteristics. The new agreements are likely to also be framework agreements of a cross-pillar nature, entailing considerable legal and regulatory reforms in the neighbouring countries before they can obtain better access to the EU Internal Market. Like the PCAs, the new ENAs risk becoming outdated in a very short period of time. Two factors may justify this judgement. The first is the broad framework character of the future ENAs. Constitutional reforms in the EU are not completed, and could continue even after the Lisbon Treaty enters into force. It is possible that the EU will occupy new areas of competence not covered by the EU founding treaties up to now. Thus, sooner or later the EU will face the necessity of revising the scope of framework agreements with third countries in order to align them with its own competences. The second factor is a possible dissatisfaction of the parties with the objectives and scope of these agreements. On the one hand, the EU side will be pressed to offer at least a paragraph concerning the long-term European prospects of the neighbouring countries which they can rely on in their integration aspirations. On the other hand, it is most likely that the future ENAs will avoid any of the specific enlargement formulas inherent in the EAs and SAAs, thereby causing some degree of dissatisfaction both to the EU and its neighbours.

However, the ENAs will be highly valued for their short term impact on the neighbouring countries. In particular they may have significant impact on the legal systems of the parties. This will concern the impact on neighbouring countries' judiciaries, which will have to take account of binding decisions issued by common institutions as a new source of national law. Furthermore, the ENAs will accelerate considerable domestic reforms in the fields of legal and regulatory harmonisation in the neighbouring countries. Therefore, we conclude with the suggestion that the future EU-Ukraine ENA, and indeed all other future ENAs, will not be the final destination of EU policy towards neighbouring countries, but is likely to serve as a transitional path on the road of closer rapprochement between the enlarged EU and its neighbouring environment.